

THE GOVERNMENT OF THE  
FRENCH REPUBLIC

THE GOVERNMENTS OF MODERN EUROPE

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THE GOVERNMENT OF SWITZERLAND

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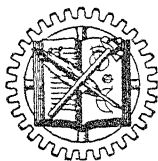
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THE  
GOVERNMENT OF THE  
FRENCH REPUBLIC

WALTER RICE SHARP



NEW YORK  
D. VAN NOSTRAND COMPANY, INC.  
250 FOURTH AVENUE

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*First Published, November 1939*  
*Reprinted, May 1941, December 1943*  
*January 1947*

PRINTED IN THE UNITED STATES OF AMERICA

## PREFACE

In these turbulent times, when the foundations of constitutional democracy are everywhere undergoing terrific strain, an understanding of the struggle of the French people to adjust their democratic institutions to unprecedented conditions, assumes a special importance. Today the French Republic remains the only *major* State (outside the Anglo-Saxon group) in which the flame of political liberty is still aglow; and even in France the forces beating against the armor of free government, from within and without, leave cause for doubt as to its fate.

The purpose of this little volume is to present a unified picture of the present-day French State as a going concern. Discarding the traditional "structural" approach, I have attempted to develop realistically what may be called the "functional" cycle of political action—from policy-formation through administration to control. This method gave rise to problems of selection and emphasis that were not easy to decide—such as, for example, the exclusion of any systematic account of 19th century French political evolution, or of local government, in favor of two chapters on the social and economic services of government. Political histories of France are legion, but so far as I am aware no succinct description of the range and content of French *étatisme* is available in English. There is, I think, sufficient analogy between recent French and American efforts to effect a "companionate marriage" between politics and economics to warrant such an innovation in a survey intended mainly for American students of *comparative* government.

Even though space permitted, my sense of obligation to innumerable French friends, for invaluable aid and insight over long years, could not be adequately expressed in cold type. If what I have written bears any imprint of sympathetic understanding, it is due to their forbearance with the persis-

tent queries of an American who must at times have seemed a nuisance! I should like, however, to record my special thanks to those publishers who kindly gave me "permission to reprint"—as indicated by footnote throughout the book.

A final precautionary note—in case another conflagration should scourge Europe during the "lifetime" of this volume: wherever the word *war* begins with a capital letter, reference is always to the Great War of 1914-1918.

W. R. S.

Madison, Wisconsin  
September, 1938

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## CHAPTER I

### FRANCE AS A NATIONAL COMMUNITY

The political life of a people can be fully understood only in terms of its physical resources and cultural evolution. This truism applies with peculiar force to the French people. One of the oldest national communities in the Western world, France has social roots ramifying back a thousand years—across countless foreign and colonial wars, through one cataclysmic internal revolution, and surviving a dozen changes of political regime. The French are proud of being an old, or, as they prefer to put it, a “mature” nation, with a history that has already run the gauntlet of far-reaching social experimentation. In no small measure this attitude has accounted for the stubborn resistance of France to the contrary winds of revolutionary doctrine which have swept the restless European world since 1917. “Sometimes,” as M. André Siegfried has remarked, “the French appear to have left the past behind them, and superficially this may be so. Yet the past does survive.”

Out of its historic past and its physical setting have emerged two sets of forces which operate in one sense to give France the appearance of being “the most united, self-contained, and exclusive of all nations,” and in another sense to make it look like “a country still painfully seeking spiritual union.” No one can properly appreciate the climate of contemporary French political behavior without knowing something of how these opposing forces have worked in the past and are likely to operate in the immediate future.

#### 1. *Elements of Unity in the French Nation.*

*Physiographic quasi self-sufficiency.* In contrast with such Great Powers as the United States or the Soviet Union, France is territorially small. Its size hardly equals that of the State of Texas and is equivalent to only seven per cent of the continental area of the United States. Whatever direction one takes, the maximum distance across the country barely exceeds six hundred miles. The city of Paris may now be reached by rail in less than twelve hours from Nice on the



French Riviera, while it is only four hours from Strasbourg on the eastern frontier.

The geographical conformation of the country has provided a favorable physical basis for the development of national economic and cultural self-containment. France is in the form of a rough square, projecting westward on the peninsula of Europe, surrounded on three sides almost entirely by water, and partially protected elsewhere by mountains (the Alps and Pyrennees). For centuries the nation based its foreign policy upon the defense of "natural frontiers." To be sure, there was one weak link in this chain—the Rhine river on the northeast. Partly because of ethnic pressure from Germanic peoples, still more because rivers do not form effective defensive boundaries, the Rhineland, the "cock-pit of Europe," became the historic military gateway both into and out of French territory. Small wonder, therefore, that following the Great War of 1914-18 a mighty effort should have been made to cover this "break in the wall" by constructing a long line of "impregnable" man-made fortifications along the Eastern frontier.

Internally, the lay of the land has facilitated the emergence of a closely knit national society. Its geologic structure may be represented in the form of two triangles. The three points of one triangle mark the center of three rocky regions—Brittany and Normandy in the northwest, the Vosges-Ardennes area to the east, and the *Massif Central* in the south-central part of the country. The three points of the second triangle, if superimposed on the first, would fall roughly in the center of three fertile river basins: the Seine valley in the north, the Saône-Rhône valley running from Lake Geneva southward to the Mediterranean, and the Garonne basin in the southwest. Lying beyond these triangular areas are the French Alps along the southeast boundary and the Pyrennees on the Franco-Spanish frontier.

Not only is the interior of France devoid of formidable mountainous barriers, but it is interspersed with 4,500 miles of navigable rivers. Inter-connecting these natural waterways an extensive network of canals, some 3,000 miles in length, has been built by the government. The lay-out of the French railways has further unified internal communication by converging upon Paris. The fact that Paris became the central

terminus of six of the seven major railway systems, aggregating 26,000 miles of track, has had no little to do with establishing "the City of Light" as the economic and cultural, as well as the political, capital of the country.

A second unifying element is afforded by climate and soil. Midway between Equator and North Pole, France is blessed with a variable but equable climate, ranging from the sub-tropical Mediterranean on the south to the cool shores of the English Channel on the north. The coincidence of an adequate though not excessive rainfall, with a changeable landscape of rivers, seacoast, hills, and mountains, has made France a country both pleasant to work in and delightful to play in. It is therefore natural that French children should be taught that *la patrie* is beautiful and that France is "the garden of the world." This is one reason why the French are more content to stay at home than are most of the other peoples of Europe, and also why France has always been such a mecca for foreign tourists.

The "ancient inheritance of the soil" exerts a strongly solidifying influence upon French life. No other large western European national group has been more closely bound to the land. The Frenchman likes to be "lord of Nature, and to subdue her destructive powers. He loves a defined pattern, a careful design in the order of the fields, the fruit orchards, the groves."<sup>1</sup> The rich productivity of its soil has made it possible for France to become relatively self-sufficient in food supply. Nearly fifty percent of the area of the country is under cultivation, with an agricultural output sufficient to feed the entire population when the crops are good. Ranking first among the nations of the earth in wine production, France also raises large quantities of wheat, potatoes, sugar beets, fruits, and vegetables. The northern plain, of which Paris forms the metropolitan center, produces three-fifths of the wheat crop, while the Garonne and Rhône valleys are known the world over for their vineyards. Dairy farming and fishing constitute other occupations of substantial though subsidiary importance.

A "Balanced" Economy. The stabilization of population growth is another factor conducive to a sense of national co-

<sup>1</sup> E. R. Curtius, *The Civilization of France* (New York, 1932), p. 43. By permission of The Macmillan Co., publishers.

hesiveness. "Since 1870 the birth and death rate have approximately balanced. Whereas the population of the United States during this period has increased about 218 per cent, the increase in France has been approximately 16 per cent. This condition has been accepted by France as a matter of course, in spite of its scanty labor supply and current fears of invasion by unfriendly and more fertile neighbors."<sup>2</sup> Official efforts to stimulate population growth, in the form of bonuses and remission of taxes for large families, have apparently had little effect upon French reproductive habits. The reason for the stationary population, however, lies not so much in the birth rate, which is not excessively low, as in a high mortality rate. In 1933 the French birth rate was 16.3 per thousand, as against 14.4 in Britain and 14.7 in Germany. On the other hand, the death rate in France, which was 15.8 per thousand, compared unfavorably with the British rate of 12.3 and the German rate of 11.2 per thousand. During the past decade far-seeing national leaders have belatedly come to realize that increased outlays for public health and child welfare services constitute the best constructive attack upon the French population problem.

Of a total population of 42,000,000, only 16 per cent live in the seventeen cities of 100,000 or more, and only 24 per cent in towns of over 20,000 (in contrast, for example, with 60 per cent in Great Britain). Paris is the only municipality with more than a million inhabitants, while there are but two cities, Marseilles and Lyons, whose population exceeds 500,000. Yet the shift of population, in France as elsewhere, has been decidedly city-ward during the last two generations. Since 1870, close to 40 per cent of the population have migrated from country to town. Today the rural and urban groups are approximately equal in numbers. The urban population tends to be concentrated in the northeastern section of the country, extending from Paris to the English Channel and Alsace-Lorraine, where industrialization has made marked strides since the turn of the century. The region of "Greater Paris" alone now accounts for a seventh of the total population of the country. The industrial suburbs of the capital have made it the chief manufacturing center of the country, while

<sup>2</sup> Cf. L. I. Dublin, "The Population Problem and World Depression," (Foreign Policy Association, New York, 1936).

the river and canal traffic has placed it first in importance as a commercial port.

Despite the inroads of industry and urbanization, France remains substantially a nation of small farmers, artisans, and shopkeepers. From a sociological standpoint, the latter two groups are, moreover, closely related to the first. Farming still occupies the largest single group (38 per cent) in the working population, commerce accounting for 11.5 per cent and industry for 31 per cent. Of 8,000,000 persons engaged in farming, 5,000,000 are owners of their own land. Moreover, as many as 30 per cent of those who are engaged in industrial or commercial activity are independent artisans or small entrepreneurs. Including the private professions, barely half of the gainfully occupied population work for salaries, fees, or wages. This has been a fact of capital importance in moulding French political and economic attitudes. "Defense of the soil" is a battle-cry that can always be counted upon to move Frenchmen deeply. Even the city dwellers remain sentimentally, if not economically, tied to the native villages of their ancestors. Parisians look forward each year to spending their vacations *en province*, usually in or near the locality from which their families originally sprang; and thousands of industrial workers, when they lost their jobs during the recent depression, returned to their native villages and took refuge with relatives. So it is that Parisian opinions permeate agricultural France, with which the capital "is often in opposition, but which always carries the weight in the long run."<sup>3</sup>

*Cultural fusion.* The biological background of French nationality constitutes a further centripetal factor of great importance. Although as many as ten different racial strains have contributed to the biological formation of the nation, many centuries of inter-marriage and admixture of blood have fused them into a homogeneous society. Prior to the Roman conquest of Gaul in the second century A.D., the dominant inhabitants were the Celts, who had entered Gaul from northern Europe six hundred years earlier. If it is from the Celts that the distinguishing ethnic mould of the modern Frenchman is derived, it is no less true that the impact of Rome has determined his basic cultural pattern. The Roman

<sup>3</sup> Cf. P. Carr, "The Outlook in France," *International Affairs* (London), January-February, 1937.

invaders implanted their language, their manners, their religion, and to large extent their concepts of law and government upon the inhabitants of the land which was to remain for four centuries a province of the mighty Empire of the Caesars. Following the collapse of Rome, "barbarian" invasions from the East—Burgundians, Visigoths, and Franks—added to the conglomeration of racial stocks in the country and temporarily destroyed its political unity; but the hold of Latin civilization was not permanently broken. Subsequent invasions by the Huns in the fifth century and by the Saracens in the eighth were checked before they could make any appreciable impact, while the Normans were absorbed by the Franks a century later.

During the thousand years that have followed, the processes of biological and linguistic fusion have gone on without serious outside interference. The ambitious efforts of Louis XIV and Napoleon to extend the dominion of the French State over alien European peoples, while temporarily successful, culminated in failure. Since the 18th century provincial dialects have gradually yielded before the advances of a *national* language for literary and legal purposes, although regional differences in accent (*patois*) still exist.

As a result of a thousand years of biological and cultural evolution, the French of today have little of that racial self-consciousness which is so marked in Anglo-Saxon and Teutonic peoples. To the French "race means something far smaller than nation. . . . They regard it as the glory of France that she has been able to fuse the most varied number of races, to give them one Faith, and to inspire them with a united national will." Far from feeling an irrational superiority over peoples of alien color or language, the French look upon themselves as supremely capable of assimilating into their culture such immigrant labor groups as the Italians, Spaniards, and Poles that were admitted to France after the World War. Today over 5 per cent of the population consists of aliens. Similarly, the French expect ultimately to convert into good "Frenchmen" the darker-hued natives of their African and Oriental colonies.

Having escaped the social poison of race prejudice, the French people can the more naturally pose as the transmitter and guardian *par excellence* of a "humanitarian" civilization.

To Frenchmen civilization is a formula of universal application. It means "the taming of raw nature, the refinement of customs, the humanizing of barbarism"; it connotes tolerance of divergent religious, philosophical, and social ideas. Above all else, it contains a subtle ingredient which may best be summarized under the caption of good manners and a temperate order of living. Nothing is more highly valued than the quality of good taste, whether it be in conversation, art, dress, food, or drink. In France eating and drinking are just as much a part of aesthetics as literature and music; hence the world-wide fame of the French *cuisine*; so, too, the leisurely tempo of luncheon and dinner in all classes of French society. The American mode of "cafeteria" and "quick lunch" eating, which has penetrated the tourist quarters of their cities, is lamented by the majority of Frenchmen as a sign of cultural "decadence."

Similarly, a mechanical organization of life, arising out of the large-scale application of industrial technology, is viewed in France with grave suspicion. If carried too far, it is held to threaten the existence of the individual craftsman and artisan and to place a premium on speed and quantity, while penalizing leisureliness and quality. For the French, happiness does not appear to depend upon material achievement or the accumulation of wealth—except on a small scale. Moderation in the quest for money, in love, in eating, in drinking, and in all other forms of pleasure, is the social ideal with which French children of all classes are inculcated at home and school. Next to moderation comes the virtue of thrift—a virtue which, in practice, is often times carried to the point of niggardliness. Shrewdness and practicality distinguish the national behavior.

Yet withal there is a joy of existence in the French spirit. This forms part and parcel of the historic slogan of the French Revolution: "Liberty, Equality, and Fraternity." Despite the divisions of race, nation, religion, and economic interest, humanity should live and let live,—not with a view to moulding society according to a uniform standard of perfection, but in order that it may develop in a flexible context of ordered liberty. This is the legacy which French genius fancies it should preserve for civilization, albeit the doubts that it can achieve this mission appear nowadays to be steadily increas-

ing in a world harassed by new fanaticisms, totalitarian ideologies, and industrial materialism.

"Should the French?" comments a brilliant Spanish observer, "succeed in shaping the world to their liking, it would go like clockwork, according to schedule. All would speak French like Mirabeau and write it like Racine. Wit and cleverness would shine upon the world like strings of diamonds, and every minute of life would be a drop of exquisite pleasure for man to enjoy. There would be Titians in cookery and Tintoretts in the art of the butler. Nature would keep her secrets just long enough for man to enjoy their discovery. All men would be able to predict eclipses and to understand Einstein at a first reading. A salon would be a kind of paradise in which all women would be Aphrodites and all men Platos: now and then a first-rate fight for a principle, irrespective of the eventual application thereof. All things permitted, though in moderation, but no more than a reasonable importance granted to the experience thus acquired."<sup>4</sup>

*A humanitarian and defensive nationalism.* A far-reaching corollary of such a scheme of cultural values is a proneness to identify the concept of the political State with the nation. Frenchmen tend to react suspiciously to the term *Etat* because it recalls bitter controversies that still punctuate political discussion and remind the people of official oppression. There is little popular consciousness of the State as such. Loyalty goes rather to France as a heroic personification of the motherland. Frenchmen die willingly for *la patrie*, but pay taxes most grudgingly to the *State*. Even the term "Republic" smacks too much of law and authority ever to win fully the affection of the "republican" masses. Their patriotism attaches rather to the nation as a cultural entity.

It is therefore easy for the French to be intensely nationalistic while remaining one of the most individualistic of peoples. As a type, Jacques Bonhomme "wants to be self-sufficient intellectually, and similarly, some hidden instinct prompts him to make himself also self-sufficient economically. To acquire a little property, a little house, a little business, a little income from investments is the dream of millions of French people, a dream that is narrow and devoid of romance. It is the counsel of wisdom, if you will, but the result borders

<sup>4</sup> Salvador de Madariaga, "An Admirable Variety," *Atlantic Monthly*, September, 1928.

on mediocrity.”<sup>5</sup> At times this individualistic trait has given rise to political reactions which are superficially *anti-social* in their implication. It goes far to explain why the majority of the French population have yielded so reluctantly to State control in social and economic affairs. It also helps to account for the deeply rooted pacifism which, contrary to popular impression abroad, characterizes the French masses.

What the Frenchman yearns for above all else is a sense of security, national as well as personal. This desire for security against outside attack may take, and, since the World War, it has often taken, the form of a veritable psychosis. It has made France at times seem ungenerous and selfish in her foreign policy. Since fear and suspicion are heritages from past suffering, she has preferred not to put too much trust in “peace pacts,” or in expressions of peaceful intention from her traditional enemy across the Rhine, but rather in a system of “collective security” based upon the potential use of legalized force. At the same time, French reluctance to make concessions in terms of treaty “rights” has suggested to many the presence of certain unpleasant traits in the national character, —a distrust, an envy, a lack of sympathy, a cold calculating point of view when material interests are involved. These faults in dealing with external affairs are but the reflection of similar tendencies which mark the French domestic attitude toward family, marriage, and the inheritance of property.

## 2. *Forces of Internal Conflict.*

Despite all that has just been said about France as a nation united by geographic, historical, and cultural bonds, it would be idle to pretend that this unity is complete. As a distinguished English correspondent in Paris recently observed, “no country more than France thrills with national consciousness, or makes patriotism its inspiring religion. Yet few countries betray such pathetic evidences of an unresolved discord.”<sup>6</sup> The sources of this discord are two-fold: (1) the

<sup>5</sup> A Siegfried, *France A Study in Nationality* (New Haven, 1930), p. 12. By permission of the Yale University Press, publishers. The preponderance of small industries and workshops is one result of this individualism. Over 70 per cent of all industrial workers are to be found in plants employing less than 100 persons.

<sup>6</sup> W. L. Middleton, *The French Political System* (London, 1932), p. 30. By permission of E. P. Dutton and Co., publishers.



conflict of ideas and habits left by the French Revolution, and (2) the economic cleavages provoked by industrialization and the rise of anti-capitalistic movements.

*Clashing political traditions.* While the great Revolution at the end of the 18th century ended once for all the absolute monarchy and established constitutional government in France, by no means all of the population were converted to the new Revolutionary ideology. The old aristocracy, both lay and clerical, was shorn of its political privileges. As epitomized in the historic "Declaration of the Rights of Man and the Citizen," bourgeois individualism became the dominant power in French nineteenth century politics. Yet "as the completeness of the democratic victory, with passage of time and the coming of reaction, became less complete, two Frances emerged to confront each other—authoritarian France, founded on the institutional trinity of monarchy, army and church, in late years particularly the church, and democratic France, founded on the ideological trinity of liberty, equality, and fraternity between individual citizens."<sup>7</sup>

The existence of such irreconcilable forces tends to strain the operation of French democratic institutions. Not only prior to the advent of the Third Republic in 1871, but on at least four subsequent occasions, their struggle for supremacy has rudely shaken the political and social stability of the country. These occasions were the abortive Boulanger *coup d'état* in the 1880's, the Dreyfus Affair a decade later, the battle over the separation of Church and State that raged from 1901 to 1905, and, most recently, the Stavisky crisis of 1934. Without recounting in detail the circumstances surrounding these internal conflicts, it may be noted that each brought into the open the refusal, or disinclination, of important groups in French society to accept the implications of political democracy.

Notwithstanding the fact that 36,000,000 of the 42,000,000 Frenchmen are at least nominally communicants of the Roman Catholic Church, their Catholicism varies greatly in meaning. Probably only a third or more are Catholics with religious intensity, the others taking their Catholicism largely as a matter of social habit. The latter group accept the ritualism

<sup>7</sup> Helen Hill, "The Spirit of Modern France," *World Affairs Pamphlet* No. 5 (Foreign Policy Association, New York, 1934).

of the Church for purposes of baptism and confirmation of children, marriages, and funerals. As they see it, the Church should remain within the spiritual domain and not attempt to interfere with political or economic affairs. To the majority of these "nominal" Catholics the control of education by the State is an indispensable part of the heritage of the French Revolution. They stand ever ready to defend the secular school (*école laïque*) against the encroachments of priest or bishop. A somewhat smaller fraction of the Catholic rank and file are definitely *anti-clerical* in politics, even where they are not, in many instances, atheistic in their theological views. This smaller group tends to ally itself with the three or four million intransigent atheists and free thinkers who stand outside the fold of any church and persist in identifying the Catholic hierarchy with the political despotisms of the past. As minority groups, the million Protestants and the 200,000 Jews in France are naturally quick to defend religious liberty. They, too, occupy a strongly anti-clerical position so far as politics is concerned. Here is presented a dualism in which France as "the eldest daughter" of the Catholic Church also stands as a "champion of emancipated reason." The fall of the monarchy was accompanied by the fall of the Church as a temporal power, but it did not remove the Church from the arena of political debate.

The radical reaction against the established Church resulting, a generation ago, in legislation drastically restricting the religious "orders," was succeeded by a swing of the pendulum back toward the Church. This trend was accentuated by the moral impact of the World War. In 1920 Joan of Arc, following her canonization by the Church, was given a special anniversary in May which those groups still unreconciled to the Revolutionary tradition now celebrate in preference to Bastille Day (the 14th of July). Controlled as it then was by a conservative *bloc national*, the Government in 1921 resumed diplomatic relations with the Vatican. In recent years a renaissance of the Catholic faith as a way of life has attracted to its fold large numbers of intelligentsia from the legal, literary, and educational world.

Far less numerous, but much more determined, than organized clericalism as a force for political disunion, is the *movément* to restore the monarchy. For this "royalist" revival

the Dreyfus Affair formed the point of departure nearly a half century ago. Originally, the issue in the Dreyfus case was simply whether a Jewish staff officer in the French army was guilty of selling military secrets to Germany. Convicted and sent to Devil's Island on circumstantial evidence, Dreyfus was later retried and finally acquitted in 1906. Meanwhile, however, the case had acquired the proportions of a national scandal and divided France into two bitterly opposed camps. Around Dreyfus as a symbol rallied those republicans and liberals who believed that he was the victim of anti-semitic intolerance; against him gathered the conservative elements that saw in the case a threat to the "right of society to be protected from confusion and upheaval even at the cost of condemning an innocent man."<sup>8</sup> In short, the Dreyfus Affair aroused all the latent opposition to the principles of liberal republicanism—clericalism, military officialdom, and authoritarianism. In its wake there emerged a royalist movement led by such brilliant intellectuals as Charles Maurras and Léon Daudet. In 1899 these men founded a royalist newspaper, *l'Action française*, through which they have been disseminating for the past forty years their program of "integral nationalism," a program which they contend can never be realized unless a strong monarchy is restored in France.

After the separation of Church and State it was easy for the royalists to draw into their camp many devout Catholics who were alienated from the Republic by the allegedly "unfair" legislation its government had inflicted upon the Church. In 1908 a royalist youth organization, known as *Les Camelots du Roi* (Helpers of the King), was established for the purpose of enlisting students in the cause. Later, following the World War, the royalist program was deliberately broadened so as to appeal to other "disaffected" elements, such as anti-semites, anti-socialists and anti-communists. By intensive printed propaganda and resort to spectacular raids upon radical meetings, as well as occasionally by electing a few vociferous members to the Chamber of Deputies, the monarchists have served as a spearhead for contemporary "fascistic" tendencies in French politics, despite the fact that in 1926 the Papacy formally disavowed *l'Action française*, placed it on the "index," and excommunicated its editors because of their ex-

<sup>8</sup> R. Soltau, *French Political Thought in the 19th Century* (New Haven,

treme anti-republican propaganda. What the French monarchists lack in numerical strength they partially make up by the colorful character of their appeal and the intellectual eminence of their leaders.

*Concentrated wealth vs. proletariat.* The internal dualism which we are now describing cannot, however, be explained exclusively in terms of religious conflict or clashing political doctrines. The forces of cleavage are also economic. Although France was much later than England or Germany to feel the impact of the Industrial Revolution, a class-conscious labor movement developed by the last quarter of the nineteenth century. Between 1880 and 1930 the portion of the adult working population employed in industry increased from 28 to 38 per cent. At the same time, industrial workers were doubling in number. Today, out of 21,000,000 gainfully employed persons in the country, over 6,000,000 are industrial wage-earners. Nearly a million more are employed in commerce and by governmental authorities as clerical workers. These 7,000,000 workers, constituting a third of the entire number of employed adults, form a natural *milieu* for the development of a radical "proletarian" movement striking at the basic assumptions of private property and capitalistic democracy.

The growing economic schism in French society is further revealed by recent statistics on the distribution of wealth. In 1930, over a third of all deceased persons left no property at all. At the other end of the scale 1 per cent possessed estates amounting to 40 per cent of the total property value owned by Frenchmen who died that year.<sup>9</sup> Income tax returns similarly suggest this tendency toward a concentration of wealth. In 1933 the total value of private incomes approximated 200 billion francs. A little over a fourth (53 billions) were reached by the income tax. These taxable incomes were distributed as follows:<sup>10</sup>

<i>Size of Incomes in francs</i>	<i>Number of Taxpayers</i>	<i>Total Taxable Income in francs</i>	<i>Percentage of Total Taxable Income</i>
10-30,000	1,620,030	32,000,000,000	60
30-100,000	266,082	14,000,000,000	26
Over 100,000	34,289	7,400,000,000	14

<sup>9</sup> P. Fr  d  rix, *L'Etat des Forces en France* (Paris, 1935), p. 46 ff.

<sup>10</sup> Compiled from official data as reported in *Le Temps* (Paris), 23 April 1936.

It will be noted that less than 2 per cent of the total number of income taxpayers accounted for 14 per cent of the aggregate taxable income. In slightly different terms, 300,000 persons, constituting less than 1 per cent of the total population of the country, held over 10 per cent of the total annual income of the country. There were only 11,000 persons earning more than 200,000 francs (about \$8,000) a year.

To an American, surveying income data for his own country, the French figures would appear to indicate a far more even distribution of national income than in the United States. Such is the fact. From a social standpoint, however, the significant thing is that trends toward a greater and greater concentration of control over industrial wealth are definitely asserting themselves in France, even though they are still less accentuated than in the more highly industrialized America. An analysis of the directorates of the 200 largest industrial and financial corporations in France shows that they are virtually controlled by a small "oligarchy" of the wealthiest families in the country, probably not over 200 in number.<sup>11</sup> Until 1936 the focus of this control was largely centered in the Bank of France, whose power over credit and money was so great as to sway at times the economic policies of the Government. Without much exaggeration it may be claimed that "eight to ten million holders of transferable securities—three-quarters of whom hold French State loans or stock guaranteed by the State—are tied to the capitalist oligarchy by bonds of financial interest, and are subject to the ideological influence of this oligarchy."<sup>12</sup>

The evolution of French agriculture, especially since the World War, has been hardly less disconcerting for believers in *laissez-faire* capitalism. An agricultural proletariat has come into being and grown until it now includes a third of the 8,000,000 persons engaged in the cultivation of the soil. At the apex of the rural hierarchy stand 800,000 land-owners, forming one-tenth of the total number of farmers, but possessing two-thirds of all the land under private cultivation. The "landed" peasantry, numbering about 4,700,000 employable adults, own the remaining third of the land—in farms varying

<sup>11</sup> F. Delaisi, "The Bank of France," *Living Age*, September, 1935.

<sup>12</sup> Cf. M. Thorez's *France To-day and the People's Front* (New York, 1936), Part I.

from one to twenty-five acres in size. The larger estates, many of them aristocratic inheritances from pre-Revolutionary days, are to be found chiefly in the western part of the country, Normandy and Brittany, while the East and South are the home of the small peasant proprietor.

So long as the peasant could sell his products at a profit, however slight, he remained content to live modestly, albeit primitively, on his small holdings. But when the world-wide agricultural crisis caused farm stocks to pile up in France after the War, still more during the recent economic depression, ruinously low farm prices led to a vociferous clamor for State aid, to the phenomenon of organized tax strikes, and to a determined resistance to mortgage foreclosures. In many rural areas, agricultural laborers, forced to live on a mere pittance, joined the poorer independent farmers in radical agitation which looked here toward socialistic change and there toward some brand of fascistic authoritarianism. By 1935 agriculture, less so than industry, but to a disturbing degree, appeared to offer a promising breeding place for the germination of anti-capitalist and anti-parliamentary attitudes.

*The rise of socialism and trade-unionism.* The net effect of these divisive tendencies in the French national economy, aggravated by the dislocating consequences of war and depression, has been to subject national unity to increasing strain. In the political arena economic unrest has produced an organized socialist movement, while in the labor world a "syndicalist" brand of trade-unionism has attracted a large majority of wage-earners and small salaried employees to its tenets.

As the birthplace of "utopian" socialism early in the nineteenth century, France has long been sympathetic to socialistic ideas. Idealistic socialism, however, gave way to the Marxist pattern by the 1880's, when an organized Socialist party entered the political lists. Torn for a long time by internal controversy over doctrine and tactics, the socialists were "unified" in 1905 under the dynamic leadership of Jean Jaurès. On the eve of the World War this united party, forming the French section of the Second Socialist International, was able to poll 1,500,000 votes, or about one-sixth of the total electorate, and send over 100 men to the Chamber of Deputies. Despite their profession of faith in *inter*-national pacifism, as a counterpart to the Marxist belief in *intra*-national class war,

the great majority of French Socialists patriotically supported the Government during the earlier period of the World War. By 1915, however, there developed an anti-war minority. Three years later the minority grew into a majority. The westward reaches of the Bolshevik Revolution divided French Socialist ranks anew and at their national party congress in 1920 the majority voted to adhere to the Third (Moscow) International, the bulk of the party officially espousing communism. The post-War reaction against the bogey of Bolshevism soon led to a sharp decline in French communist strength and by 1922 the old-line Socialists, steadily gravitating toward constitutional reformism under Léon Blum's leadership, once again became the majority. During the succeeding twelve years these two anti-capitalist groups—the reformist Socialists and the revolutionary Communists—maintained separate and distinct political organizations. Repeated overtures for a new unification proved futile. While the official Socialists refused to take any responsibility for governing, they were willing to ally themselves with liberal republicans by entering the "Left Bloc" for the elections of 1924 and again in 1932. The Communists, meanwhile, maintained a consistently obstructionist policy, at times voting with the nationalist and conservative parties on the Right in order to embarrass the moderate and liberal cabinets then in power. Upon occasion, also, the Socialists, with far greater parliamentary strength than the Communists, would abstain from supporting Left Bloc policies, such as, notably, increased military appropriations and civil service salary cuts, and thereby defeat the government.

The advent of Hitlerian fascism in Germany provoked an about-face in French Communist strategy. Fearful that the avowedly anti-communist objectives of the German Nazis heralded open war against the Soviet Union, the French Communists, presumably under orders from the Third International, took the initiative in 1934 in negotiating with the old-line Socialist party a "united action" pact against "war and fascism." Indeed, the spectre of fascism had by then appeared in France itself. Parliamentary vacillation in coping with the onslaught of economic depression and foreign affairs after 1932 had given rise to renewed clamor for a governmental régime with stable executive authority. A financial scandal in

which certain cabinet officers and members of Parliament were indirectly involved confirmed an increasing number of conservative-minded persons in the belief that the parliamentary régime was honeycombed with corruption and enfeebled by executive incapacity. On the night of 6 February 1934, a riotous attempt was made by a mob of "rightist" groups (in the vanguard of which were certain royalist and fascistic war veteran organizations) to storm the Chamber of Deputies and throw its radical members into the Seine river. In quelling the riot the police and republican militia fired on the crowd, and before the night was over French blood ran on the boulevards of Paris.

Whether this attack "from the street" was intended by its instigators as the prelude to a veritable *coup d'état* is not certain. Whatever the truth, the Left parties, convinced that the rioters were subsidized by reactionary elements, interpreted the affair as an effort to sabotage democratic institutions. Thus was the stage set for a Socialist-Communist "common front."

In the meantime, a parallel movement culminating in unity among French trade-unionist forces had taken place. The evolution of French trade-unionism had followed closely the development of French political socialism. Originally, the former movement had no faith whatever in the possibility of achieving economic reform by *political* action. Its dominant ideology was revolutionary syndicalism, formulated as a protest against the tendency of Socialist leaders to become conservative upon assuming governmental office. Syndicalism exalted the class-conscious proletariat as a militant force for working-class salvation and proclaimed the general strike as its ultimate weapon of "direct action." It looked forward to the organization of society into self-governing guilds, including not merely existing private industries, but the "public" services—postoffice, schools, etc.—as well. To the syndicalist leaders the conflict between capital and labor seemed insoluble both on *psychological* and on *economic* grounds.

Down to the World War the French syndicalist movement grew but slowly. The General Confederation of Labor (*C. G. T.*), founded in 1895, had by 1914 only 500,000 members. In addition, two-thirds of the lower-grade state employees, including postmen and elementary school-teachers,



had formed their own *syndicats*. All told, however, not more than one-tenth of the entire mass of French wage earners and small-salaried employees were then organized on a trade-union basis. The War and its economic aftermath temporarily produced an enormous expansion of strength in the movement. The C. G. T. increased 500 per cent to a total of 2,400,000, while syndicalist principles began to penetrate the hitherto hostile domain of the intellectual and professional worker. As in the case of political socialism, the forces of syndicalism were soon to be disrupted by the issue of communism. After an unsuccessful attempt by the C. G. T. to launch a general strike in the spring of 1920, the Government decreed that the organization should be dissolved. Meanwhile, after the moderate majority in the labor camp had refused to adhere to the Moscow International, the dissenting minority formed their own organization—the *C. G. T. Unitaire*—and adopted a communist profession of faith. As a result of this rupture, the numerical strength of French trade-unionism shrunk to only a little over a million members.

During the succeeding fourteen years the old-line C. G. T. moved steadily toward a reformist position, evolving an ideology which looked toward the progressive socialization of industry under a democratic form of management, in which the organized workers would directly share. All the while, the militant communist labor group consistently refused to coöperate with their more moderate comrades—until the imminence of the fascist peril paved the way for complete reunion with the C. G. T. in 1935. Thus on the industrial as well as the political front, the forces of labor radicalism, now swollen to 5,000,000 members, were drawn together for the avowed immediate purpose of protecting democratic liberties against a new “reactionary” offensive inspired by the success of fascism in other European states.

*The impact of fascism.* In the forefront of this offensive stood a new “political league” called the *Croix de Feu*. Organized originally in 1927 for the defense of war veterans’ legislation, the *Croix de Feu* broadened its objectives as discontent with the apparent incapacity of muddling parliamentary cabinets to cope effectively with economic confusion and foreign policy spread over the country. France must become a “united” nation again, proclaimed Colonel de la Rocque, the

ex-army officer of aristocratic lineage who had become the *Croix de Feu's* leader; and national union was possible only if a strong, stable executive, freed from the shackles of party strife, could govern the country. As to how this was to be achieved, the *Croix de Feu* program was deliberately vague, although it could be reasonably inferred that revolutionary action was envisaged if constitutional reform should prove futile. To a marked extent the *Croix de Feu*, and other "political leagues" of lesser importance, were in 1934-35 forcing their imprint upon the traditionally conservative political groups in Parliament.

As the national elections of 1936 approached, these leagues and parties coöperated in forming an electoral coalition, or "conservative front," which, while it did not express open hostility to the parliamentary régime, left little doubt that the latter must be drastically overhauled if order and authority were to prevail in France. The "bogy of communism" was invoked in order to rally frightened clericals, landowners, and industrialists against the newly formed "common front" of Socialists and Communists.

*The dilemma of the Radical-Socialists.* Between the opposing camps to the right and the left stood the pivotal Radical-Socialist party, made up largely of peasants, shopkeepers, and artisans. For a generation this party, more truly "liberal" than "radical" or "socialist" in outlook, had held the balance of power in the politics of the Third Republic.<sup>13</sup> With the exception of two relatively brief periods, 1919-1924 and 1928-1932, its point of view dominated the governments of the day. While it was always obliged to govern either in coalition with the moderate republican groups to its right, or with the support of Socialists on its left, it usually had a larger parliamentary strength than any other single party. What is more, the Radical-Socialists best represented the tenets of "republicanism" as the average Frenchman conceives the idea—the rights of man, freedom of discussion, separation of church and State, secularism in popular education, and the political supremacy of Parliament. Since the Radical-Socialist rank and file emanated from the small-property classes in French society, the party had traditionally clung to a belief in the ad-

<sup>13</sup> French humorists are fond of dubbing the Radical-Socialists "radishes—pink on the outside, but white inside"!

visability of as little State interference with economic activity as possible. But the triple impact of war, inflation, and the severe depression tended to undermine the economic security of its lower middle-class constituency. By the 1930's increasing members of peasants and retail shop-keepers alike were clamoring for State loans, subsidies, and legal relief from impending foreclosures and bankruptcies. In short, the confidence of the Radical-Socialist masses in the efficacy of old-styled "economic individualism" was being rudely shaken by economic disasters undreamed of when the party was born forty years earlier.

In this predicament the Radical-Socialist leadership had little or no constructive program to offer its followers. The party found itself in a nasty dilemma. Its moderate wing, dominated largely by rural elements, still had little sympathy for socialist doctrine *per se*. On the other hand, the left wing, deriving its popular strength mainly from commercial quarters, was being steadily drawn toward an acceptance of large-scale State regulation of industry and credit. By the summer of 1935, the Executive Committee of the Party, over which the left wing had gained control, decided after bitter debate to accept the invitation of the Socialists and Communists to form a broad "Popular Front" against fascism and in defense of republican institutions. "Without having at the outset any semblance of common *positive* program, these groups could at least agree upon a common *negative* platform: '*Fascisme, voilà l'ennemi*.'" <sup>14</sup>

Liberal-republican, labor, socialist, and communist forces were thus led into a working unity by fear of an immediate, common danger. On Bastille Day 1935, over 600,000 wildly enthusiastic men and women massed themselves on the site of the old Bastille, which symbolized the original purposes of the Great Revolution of 1789, sang alternately the *Marseillaise* and the *Internationale*, and took a prophetic oath which ran as follows: "We solemnly swear to remain united in order to disarm and dissolve the fascist leagues, to defend and develop democratic liberties, to provide bread for the workers, employment for youth, and peace to the world." Animated by the

<sup>14</sup> Cf. the author's article, "The Popular Front in France: Prelude or Interlude?" *American Political Science Review*, October, 1936, for a fuller discussion of these developments.

purposes of this oath, the Popular Front was able to evolve a *minimum* electoral program and maintain such solidarity in the national campaign of 1936 as to return a substantial majority of its candidates to the Chamber of Deputies.<sup>15</sup>

For the first time in its history, the French Socialist party, by reason of having the largest single bloc of deputies, took the initiative in forming a government, and Léon Blum, for many years its distinguished leader, became the first Socialist Prime Minister of France. Although the Communist leaders declined to enter his Cabinet, they pledged the support of their followers for Popular Front policies.

### 3. *National Unity on the Anvil*

Political observers of the foregoing dramatic developments were agreed that in one sense they heralded a "veritable revolution in French political tradition." The old brand of political "radicalism" born of the Great Revolution of 1789 seemed to be yielding to the more dynamic type of radicalism born of the Industrial Revolution. Traditional "radical" strength shrank in 1936 to only 14 per cent of the total popular vote. On the other hand, the combined vote of all the socialist and communist groups, which accounted for only 17 per cent of the total in the last election before the World War, had steadily risen until it now exceeded 40 per cent. Thus four out of every ten French voters had been converted, temporarily or permanently, to some brand of anti-capitalist doctrine; or, at the least, they desired to register, by voting with the advanced Left, a vigorous protest against existing political and economic conditions. Even if the immediate program of the Popular Front could not be called Marxist, it undoubtedly implied a much more far-reaching State regulation of banking, industry, agriculture, and labor than Republican France had hitherto been willing to accept. Considered in this light, M. Blum was perhaps justified in comparing the series of reforms which his Government enacted during the summer and autumn of 1936 to a "New Deal" in French politics.

The forces of economic conservatism in France have by no means surrendered to the ideas and policies implicit in the Popular Front movement. As old-line liberalism has yielded

<sup>15</sup> The Popular Front polled 56 per cent of the total popular vote and secured 63 per cent of the seats.

to socialistic radicalism on the Left, so has the pendulum swung toward an increasingly authoritarian, if not fascistic, conception of the State among the conservative groups on the Right. The largest of these groups, known as the "Republican Federation," made a gain of 28 per cent in voting strength in the 1936 elections, at the expense of the leading moderate-center party, which suffered a loss of 15 per cent. It is this trend toward "extremism," the weakening of the political center in favor of the periphery, that may herald a new bi-polar pattern of behavior on the part of the French electorate. There is no direct issue—at any rate not yet—of communism *versus* fascism. In a country where individual ownership of property is so widespread as in France, undiluted communism will never take hold. At the same time, the growing instability of the capitalist system, which is in turn producing an articulate solidarity among wage-earners and small-salaried workers, may cause the holders of economic power to seek salvation through some sort of authoritarian regime. The menace of international war lends still further uncertainty to the political and economic outlook.

Against the outside world, French national unity still prevails, but as these lines were written early in 1938 internal unity was on the anvil. Despite the weakening of Popular Front solidarity, a new French "revolution" appeared to be in the making. If the goddess of fate smiled, it was likely to be a bloodless and constitutional revolution; if she frowned, bitter civil strife might preclude orderly change. The entire Western world has a vital stake in what happens to French democracy, for upon its capacity to make its will effective the future of Western civilization, at any rate in Europe, may depend.

## CHAPTER II

### THE HISTORIC FOUNDATIONS OF GOVERNMENT

The political heritage of the present French Republic is derived from three major sources. From a thousand years of monarchy and empire it inherited a system of public administration characterized by territorial centralization of power. From the Great Revolution of 1789 came the concept of democratic government as limited by a constitution designed to protect individual rights. From the nineteenth century, by English example, it got its understanding of parliamentary forms and institutions. In spite of the rapid and frequently turbulent character of political change in France, an underlying continuity may be discerned in the institutional development of the country.

#### *1. A Centralized Administrative System*

The political evolution of France down to 1789 offers a sharp contrast to that of its English neighbor. In England the early kings were for the most part strong rulers whose power was gradually curtailed by a weak baronage forced to unite in order to resist royal oppression. Across the Channel, the early Capetian kings were on the whole weak men faced by a powerful baronage which grew weaker as the time went on. The English nobility not only became politically stronger as the centuries passed, but, by intermarriage with commoners, permitted the establishment of a broad basis for representative government after the Puritan Revolution. On the other hand, the French nobility became socially alienated from the "Third Estate," and the latter looked more and more to royalty for protection. This paved the way for the emergence of royal absolutism under the great Bourbon monarchs who succeeded to the French throne during the seventeenth and eighteenth centuries.

A second factor that strongly influenced the divergent political development of the two peoples was provided by geog-

raphy. England was an island enjoying geographic isolation and relative security from invasion. Hence it was not so necessary that the instruments of power be concentrated in the hands of a strong central government. France, on the contrary, had an open land frontier on the East, stood in constant danger of attack, and needed a powerful centralized authority in order that its territory might be more effectively defended. Once established, this authority was also available for purposes of national expansion whenever an ambitious monarch, like Louis XIV, occupied the throne.

During the earlier centuries the power of the French kings was, it is true, subject to certain limitations which had grown up through custom. The royal need of revenue and advice gave rise in the thirteenth century to a kind of parliament, called the Estates General—a body which was divided into three sections, one representing the lay nobility; one, the higher clergy; and the third, the emerging bourgeoisie. Not only could the first two “orders,” voting as units, dominate the “third estate,” but meeting of the Estates General depended entirely upon the royal will. After 1614 the Estates General was not convened until the very eve of the Great Revolution in 1789. With such a precarious existence, it is not surprising that the Estates General failed to acquire any real control over the granting of money or the making of laws. In the outlying provinces, notably Brittany, Burgundy, and Languedoc, regional “parliaments” similar in type came into open conflict with the King at times; but they, too, gradually succumbed to the ever-widening reaches of royal power.

Such simple operations of government as were needed in a pre-industrial age were exercised by a body of royal officials responsible only to the king himself. When the monarch was weak, dull, or lazy, his ministerial entourage carried on the affairs of state without interference, except for occasional manifestations of royal caprice. When the king was clever and strong-willed, like Louis IX, Henry IV, or still more, Louis XIV, royal control held the baronial oligarchy in check. Ruling, as they claimed, by divine right, the later kings extended their control out over the country by a system of military and civil administrators who were directed from Paris by the king’s council. The key official in this system of administrative control was called the *intendant*. Originally a local military

representative of the central government, the *intendant* eventually developed into a civil official in whom judicial, fiscal, and police powers were joined. Under the masterful genius of Richelieu and Colbert all local resistance to these royal agents was crushed and the hierarchical edifice of administrative centralization reached its *apogée* by the time of Louis XV.

The *intendants* were "career" officials chosen from the nobility and upper bourgeoisie. Their training, almost wholly legal in character, did not necessarily make them efficient administrators. In fact, the quality of these royal "eyes and ears" was more often than not mediocre, particularly so in that favoritism and court intrigue played no small part in their appointment. Such as they were, however, they epitomized the day-to-day authority of the *Ancien Régime* to its 25,000,000 subjects.

The subordinate tasks of administration were delegated by the *intendants* to a conglomerate body of magistrates, policemen, inspectors, and tax collectors. Most of these officials got their appointments by purchase and, in many cases, they could pass along their offices to their heirs by a kind of "hereditary" succession. Remuneration for such officials consisted chiefly of such fees and bribes as they could exact from the helpless taxpayers. As the regulatory activities of the French state multiplied during the mercantilist period, the central departments of State attempted to cover every detail of administration by an order or regulation from Paris. The result was that "people and officials became accustomed to formalities, delay, over-regulation, and a surplus of reports and statistics. No one could possibly understand or keep all the rules and therefore both officials and population ceased to take them seriously."<sup>1</sup> Thus there appeared many of the evils of over-stuffed "bureaucracy" from which France has not to this day been able entirely to extricate itself.

In such a system the provincial areas of the country enjoyed, in theory at least, little power of local government. They tended to become merely geographic units. For governmental purposes the nation was divided into a hierarchy of administrative districts whose boundaries corresponded neither to political geography nor to economic, social, or ethnic di-

<sup>1</sup> H. Finer, *The Theory and Practice of Modern Government* (New York, 1932), vol. II, p. 1234. By permission of the Dial Press, publishers.



visions. What is more, it was a system of government shot through with special privilege for the clergy, nobility, and army. Not only did these three favored classes determine the policies of government, but they occupied the apex of the entire social hierarchy. In short, France under the Old Régime was a thoroughly stratified society ruled by an "official caste" through Church and State.

Although the Revolution of 1789 abolished this system of special privilege and introduced the principle of legal equality, administrative centralization was reinforced. For the old scheme of regional administrative areas, called *généralités*, there was substituted a more minute subdivision of the country into over eighty *départements*, somewhat comparable to American counties, and under them thousands of local districts—*cantons*, *arrondissements*, and *communes*. The new *départements*, most of them named after rivers or mountains, were even more artificial as territorial areas than the larger *généralités* whose place they took. On the other hand, in the delimitation of the *communes*, the boundaries of natural communities, both rural and urban, which had grown up historically around the parish church and local trade, were in the main followed. The objective of these reforms, however, was not to decentralize the operations of government. On the contrary, they were intended by the Revolutionary Assemblies of the 1790's to consolidate national unity on a republican basis by blotting out all visible reminders of the hated monarchical regime, as well as regional differences. In the changes was also reflected that intense fondness for symmetry and uniformity which characterized the thinking of the visionary leaders who dominated the first phases of the Revolution.

With the coming of foreign war and the necessity of organizing the country for defense against invasion, centralization was even more accentuated. Napoleon as First Consul, and later as Emperor, converted the *republican* into an *imperial* system in which the principles of hierarchical control were carried to extreme lengths. Not only civil and military administration, but the law, the church, and higher education felt the impact of Bonaparte's restless genius. Under his direction French law, formerly a conglomerate mixture of customary practices and disjointed written rules, underwent a drastic process of codification; the Catholic Church was

brought under strict State surveillance by the *Concordat* of 1801; and the historic universities were incorporated into a unified State educational system. Government departments were rid of incompetent officials and a new set of administrators, drawn chiefly from the bourgeois class, was appointed by and made directly responsible to the Emperor. So long as he ruled France, personal merit served as the major factor in the selection and promotion of public officials, although it could not be said that any systematic standards for determining administrative capacity were established by Napoleon. At times favoritism and inside influence counted for much in the Napoleonic system.

No one has more vividly described this system of administration than the celebrated French historian Taine, from whom we quote: "It forms one unique, vast, monumental block, in which all branches of the service are lodged under one roof; in addition to the national and general services belonging to the public power, we find others also, local and special, which do not belong to it, such as worship, education, charity, fine arts, literature, departmental and communal interests, each installed in a distinct department. . . We behold the innumerable body of clerks, functionaries, supernumeraries, and postulants, a whole multitude, ranged tier beyond tier and attentive; nobody advances except upon order and in his turn. Nowhere in Europe are human lives so well regulated, within lines of demarcation so universal, so simple, and so satisfactory to the eye and logic: the edifice in which Frenchmen are henceforth to move and act is regular from top to bottom in its entirety as well as in its detail, outside as well as inside; its stones, one above the other, are adjusted with exact symmetry."<sup>2</sup> France was organized, as it were, on the order of a "military barracks," with channels of authority running down from the central ministries, level by level, to the lowest units of government. Some five or six hundred high officials in Paris, personally chosen by Napoleon, exercised an unlimited legal control over the selection and activities of the *prefects*, successors to the old *intendants*, who embodied the central government's authority in the territorial *départements*; while the *prefects*, in turn, controlled the sub-prefects,

<sup>2</sup> H. A. Taine, *The Modern Regime* (Eng. trans. by John Durand, 2 vols., New York, 1890), vol. I, pp. 140-141.

mayors and local councillors who constituted the governing corps in the *arrondissements* and *communes*.

With the passing of Napoleon, the central dynamo was removed from this high-g geared administrative machine. It continued to function, however, as the real government of France down through the nineteenth century. The Restoration of 1814-15 gave way to the July Monarchy of 1830, and the latter was succeeded by the Second Republic of 1848; but the administrative set-up suffered little change. Under the Second Empire, Louis Napoleon governed with the bureaucratic apparatus left by his famous uncle a half-century earlier. The repeated efforts of liberal reformers through this period to bring about some degree of decentralization came substantially to naught. "Dynasties, flags, and régimes passed away: the Bureaucracy neither died nor surrendered." The Third Republic took over for administrative purposes what might still be called an "imperial mosaic." The republican prefects were in truth the lineal descendants of the prefects of Napoleon. When the present written Constitution was being formulated during the years 1871 to 1875, the continuity of the administrative system was so much taken for granted by all political groups that no mention of administrative organization appeared in the new fundamental law.

As we shall see more fully later, this situation left the republican régime with a difficult double task to perform if centralized, bureaucratic administration was to be infused with the spirit of democracy. On the one hand, it has been necessary to decentralize power by conferring an increasing degree of local autonomy upon *départements* and *communes*. On the other, the Republic has had to "democratize" the staffing of the central government departments. For, despite the impact of Revolutionary "equalitarianism," the personnel of the public services long continued to be recruited almost exclusively from the ranks of the post-Napoleonic aristocracy, and, still more, from the upper reaches of the bourgeoisie into whose hands the instruments of power in French society passed early in the nineteenth century. Although the "spoils system" in the American sense of political rotation of office has never become a part of French administrative tradition, patronage in the form of family influence and personal favoritism still permeates parts of the State service. From the inception of the

Third Republic to the present day a constant struggle has been waged to establish a competitive system of recruiting and promoting personnel based upon merit. To what extent this effort has achieved success will be apparent in Chapter VI.

## 2. *Constitutionalism and Civil Liberty*

The French Revolution did more than transfer political sovereignty from monarch to nation. It also implanted in Frenchmen a deeply rooted belief in the efficacy of a written constitution as a means of protecting the individual against abuses of official authority. The most important act of the National Assembly of 1789 was to formulate the famous "Declaration of the Rights of Man and the Citizen."<sup>3</sup> In this document we find the essence of the eighteenth century notion of individual liberty. Man is born free and equal in rights, among which are "liberty, property, security, and resistance to oppression." Law is established in order to prevent injury to "natural" rights. Thus no man may be accused or arrested except in accordance with a fixed judicial procedure, and he is presumed to be innocent until his guilt is established. So long as he does not thereby disturb the public order, he may freely express his opinions verbally or in writing, religious or secular. Nor may he be deprived of his property unless national law declares that public necessity demands such action, and then only after reasonable compensation. Finally, proclaimed the famous Declaration, the foregoing rights would not rest upon a secure foundation unless they were guaranteed by a written constitution providing for the separation of governmental powers in the manner in which Montesquieu had interpreted the English political system in his famous *L'Esprit des Loïs*.

Two years later the first written Constitution ever to be formulated on the Continent of Europe issued from the deliberations of the French National Assembly. The text of the Declaration of 1789 was inserted as the preamble, or preface, to this Constitution. "From that time onwards, France, notwithstanding her numerous political shifts and turns, has lived continuously (except for brief transitional intervals) under a

<sup>3</sup> For the text of this historic document, cf. Rappard, Sharp, *et al.*, *A Source Book on European Governments* (New York, 1937), II—157.

written constitution. She, furthermore, became—so far as Continental Europe is concerned—the mother of written constitutions. During two decades of conquest and expansion, she covered all Western Europe south of the Baltic with constitutions which she had herself made, or which at all events were modelled on one or another of her own fast-appearing fundamental laws; and by the time when her power receded to its earlier limits, the idea had been indelibly impressed upon the liberal elements in Germany, Italy, Spain, and elsewhere that a prime requisite of popular freedom is written organic law.”<sup>4</sup>

Even though nearly three generations of turbulent political evolution after 1789 were necessary before France could acquire constitutional stability, the principles inherent in the Declaration of the Rights of Man have remained part and parcel of French political tradition. By 1875 these principles had become so firmly established that it was not thought necessary to incorporate them in a formal “bill of rights” when the Constitution of the Third Republic was adopted.<sup>5</sup> To the present day the famous Revolutionary slogan of “Liberty, Equality, and Fraternity” appears in imposing letters over the entrance of every public building, as well as, for that matter, many of the historic cathedrals. From 1789 on “every French government, according to its particular shade of revolution or counter-revolution, of Jacobinism or anti-Jacobinism, has industriously interpreted in its own way the famous formula, stressing now one and now another of its parts. The constitutional monarchy stressed liberty; the empires emphasized equality; the second and particularly the third republics have paid some attention to equality but more to liberty and fraternity. . . . Throughout the process, however, it has been the central government which has guided the fraternity, measured the equality, and determined the liberty, of Frenchmen. In France, there has been no institution analogous to the Supreme Court in the United States for the defense of the individual against encroachment by the State, nor has there been in France any pressing popular demand for such an institution.”<sup>6</sup>

<sup>4</sup> F. A. Ogg, *European Governments and Politics* (New York, 1934), p. 443. By permission of The Macmillan Co., publishers.

<sup>5</sup> The constitutions of 1793, 1795, 1800, 1848, and 1852 had contained bills of rights.

<sup>6</sup> C. J. H. Hayes, *France. A Nation of Patriots* (New York, 1930), p. 23. By permission of the Columbia University Press, publishers.

The protection of civil liberties, therefore, rests upon (1) the vigilance of public opinion pressing upon Parliament and (2) the interpretation of statutes and administrative regulations by the courts in specific controversies. In a series of measures enacted by the Parliaments of the Third Republic most of these liberties are now defined in legal detail.

Freedom of the press, for example, is based upon a law passed in 1881 which prohibits any advance censorship of what may be printed. The only restrictions are that the name of the publisher shall be indicated and that two copies of each issue of a newspaper be deposited with the Ministry of the Interior for the national archives and libraries, and locally, at the prefecture or town hall. With regard to libel, the provisions of this legislation were so loose that nowhere else in Europe has the press been so free to indulge in incitement to violence and campaigns of defamation against political personages. After the assassination of President Carnot by an Italian in 1894, the law was accordingly amended so as to make it a criminal offense to use the press for such purposes. But the burden of proof in a libel case still rested upon the individual, whether a private citizen or a public official, who claimed injury by press slander, and it was notoriously difficult to secure a verdict against the offending newspaper from any French jury. Extremist journals could subject their political opponents to the printed poison of calumny and lying almost with impunity. For example, during the application of sanctions in the Ethiopian affair the royalist newspaper, *l'Action française*, went so far as to preach "the murder" of 140 Left wing deputies and senators the moment war with Italy came! More recently, in 1936, a Socialist Minister of the Interior, M. Salengro, was charged by certain reactionary papers with having committed treason while a soldier on the Western front during the World War. Despite an overwhelming vote of the Chamber of Deputies clearing the Minister of the charge, the press campaign of invective was continued, with such impact upon his sensitive personality that he finally committed suicide. In order to prevent the recurrence of such excesses, the Blum Popular Front Government forced through Parliament a bill intended to increase the liability of the press for slanderous libel.<sup>7</sup>

<sup>7</sup> This bill, which quickly passed the Chamber intact, was considerably weakened by the Senate.

Another "abuse" of freedom of the press in France which this Blum measure purported to correct was the ease with which newspapers could conceal their ownership and sources of income. For years most of the big conservative Parisian newspapers have been either owned by financial and industrial interests, such as the *Comité des Forges* in the case of the powerful *Le Temps*, or subsidized in varying degree by official funds whose source has usually been kept secret. Diplomatic revelations after the World War brought to light how the Czarist Government had attempted to influence French opinion by secret grants of money to certain Paris papers. Again, during the Italo-Ethiopian conflict in 1935, it was freely charged that Mussolini had resorted to similar tactics in an effort to keep the Laval Government from supporting League sanctions against Italy. In fact, the French Government itself, through its Ministry of Foreign Affairs, has upon occasion been known to employ "secret funds" with a view to producing press support for certain policies or allaying criticism of its official acts. Only the provincial press, and the smaller and less important Paris papers representing radical opinion, have been free of undercover control or influence by business and governmental interests. In order to bring into the open such subversive connections between the press and these forces, Premier Blum proposed to render obligatory the publication of the ownership of all newspapers, together with their sources of revenue. Even if these provisions had remained in the law which finally got through Parliament, they would not eradicate the basic evils inherent in a commercial press. However this may be, the French Republic has thus far escaped the far greater danger of iron-clad governmental censorship.

A second aspect of civil liberty is the right of citizens to assemble peaceably for public discussion. In France there are few legislative restrictions on this right. Subject only to local regulations as to the hour of closing meeting places at night, meetings may be held without advance notice to the authorities. In no country does public discussion by citizen groups flourish more freely. Coupled with the right of assembly is the time-honored right to petition the public authorities for redress of grievances, and, more recently, the right of private citizens to form non-profit associations for economic and cul-

tural purposes. For nearly a century after the Revolution of 1789 it was not perceived that the principle of individual liberty also implies the right of citizen groups to organize for the advancement of legitimate social objectives. As influenced by the ideas of Rousseau, the Revolution represented a reaction against the perils to national unity produced by the political "clubs" and professional "corporations" of the *Ancien Régime*. Hence came the celebrated *Loi le Chapelier* of 1791 prohibiting the formation of "professional associations" and the insertion of provisions in the Penal Code requiring the authorization of the prefect for all private organizations containing as many as twenty members. These rules applied not only to philanthropic, scientific, educational, and athletic organizations, but to trade-unions as well. The last sixty years, however, have brought a marked change in this regard. The legality of trade-unions was recognized in 1884. Still later, in 1920, they were granted the right to acquire property and to sue and be sued in the courts. By the Associations Law of 1901 all private groups except those of a religious character are permitted freely to organize, provided their objectives do not run counter to national law or public morality. If such associations desire the right to bring actions in the courts and to own property, they must so declare to the proper authorities prior to formal organization.

The status of religious organizations rests upon a much more restrictive basis. Adopted during the bitter struggle for the separation of Church and State, the Act of 1901 was intended to compel the dissolution of all religious orders which failed to secure subsequent authorization from Parliament to continue their corporate existence. During the years that immediately followed, most of the religious orders (*congrégations*) that possessed extensive property were dissolved by administrative decree and forced to evacuate their monasteries and convents, despite vehement protests from high Church dignitaries. In no event was a member of a *congrégation* allowed to teach in any educational establishment. Religious orders maintained purely for charitable purposes were, however, left untouched by the Government. Under existing law the establishment of new religious orders is permissible only if they agree to render an annual accounting of their membership, activities, revenues, and expenditures to the prefect



of the *département* where they are located. Since the World War, the enforcement of this drastic legislation has been tempered by a more tolerant attitude. Moreover, parochial schools continue to operate by the thousands, and in 1929, upon the recommendation of Foreign Minister Briand, several new religious *congrégations* received legislative approval with a view to facilitating French missionary activity abroad.

Turning to the broader question of religious freedom itself, we find that since the Separation Act of 1905 there has been no official connection between the State and any church.<sup>8</sup> The State is bound to maintain strict impartiality toward all religious sects, whether Catholic, Protestant, or Jewish. No longer may any Church budget be subsidized from public funds. In the case of the Roman Catholic Church, all ranks of the clergy are appointed as the Papacy wills. While Church buildings remain the property of the central Government or the *communes*, they may be occupied "rent-free and in perpetuity" by local Church groups. Many of the historic cathedrals are maintained as "national monuments" by the State, and in communities where Catholic influence is strong, the municipality usually contributes toward the upkeep of local Church property.

Freedom of worship for all sects alike is subject to certain police regulations designed to protect public order. For instance, religious processions through the streets may be prohibited by the municipal authorities if there is reason to believe that disorder may result from clashes between anti-clerical and religious fanatics. The ringing of church bells may be locally restricted so as not to cause confusion in sounding fire alarms or calling children to school. Conversely, it is a punishable offense for any individual or group to interfere with the conduct of a religious service by causing physical disturbance. Slandorous references to public officials during pastoral discourses make clergymen liable to heavy fines.

The status of the Church ties in closely with the relations of the State to education. Throughout the *Ancien Régime* the Catholic Church held a virtual monopoly over education. The

<sup>8</sup> It is important to note that, even during the period of the Concordat (1802-1905), the right of non-Catholic sects to worship as they pleased was protected by law and they also were the beneficiaries of State subsidies.

Revolution attempted at one fell swoop to abolish Church control and secularize the educational establishment at all levels. It was not until the 1880's, however, that the elementary public schools (to thirteen years) were established on a free, compulsory basis. The fight to abolish fees at the secondary school level is still only partially won, and the compulsory school-leaving age is still as low as fourteen years. In a country as strongly Catholic as France, it is not surprising that the opposition of the Church to tax-supported "lay" schools should have been stubborn. Devout Catholics still profess a "horror" of "godless" instruction for the youth of the land. It is this view which has done so much to generate radical "anti-clericalism" in French politics. To the Catholic, liberty of conscience does not exist if parents are prevented from choosing freely the schools to which they shall send their children. Why should Catholic parents be forced to pay taxes for the maintenance of free secular schools, while at the same time contributing to the support of the Church schools to which their children go? This is an issue which is still not fully resolved in France. In communities where Catholic influence is uppermost, the public school is sometimes subjected to a virtual boycott. Nevertheless, the cause of *l'école laïque*, free from kindergarten to university, has made steady progress during recent years and is likely to achieve complete victory sooner or later.

Aside from the religious question, academic freedom may be said to exist as fully in France as in any constitutional democracy. The teaching profession is a rigorously trained corps of men and women who are recruited by competitive examination and enjoy security of tenure. A series of national laws enacted since 1880 protect elementary and secondary school teachers, as well as university professors, from dismissal or lesser disciplinary penalties except for "cause," after a carefully prescribed judicial procedure has been utilized. The fact that the school system is centralized under the jurisdiction of a Ministry of National Education at Paris does tend toward uniformity in curricular content, but the teaching profession has at least as much leeway in the selection of textbooks as in the typical American state. What is more, the organization of French teachers into national professional associations (*syndicats*) serves substantially to protect them from

official interference with the public expression of their social and economic views as citizens outside the classroom.<sup>9</sup> It is doubtful whether the elementary school-teacher class of any country holds more advanced ideas on the question of social reform or international peace.<sup>10</sup> While the faculties of the *lycées* (secondary schools) and State universities constitute a much more conservative-minded group, the number of avowed socialists on their rolls is not inconsiderable.

The foregoing summary of French legislation relative to the protection of cultural liberties is intended to convey to American readers the simple fact that the desired result may be secured without resort to legislative review by a supreme court. In France it is the free interplay of political forces in the parliamentary process which makes civil liberty secure—so long as the will of the country desires it to be secure. No cabinet that tried seriously to curtail freedom of opinion could long stay in power. If Parliament were not in session, it would face such a barrage of criticism from the press and citizen groups like the League for the Defense of the Rights of Man (comparable to the American Civil Liberties Union), that the position of the Government would become untenable. If Parliament were in session, the attack would come from the floor of the Chamber or Senate, and the inevitable result would be either the defeat of the Government or a retraction of its restrictive policies.

On the other hand, there is no "due process of law" clause in the French Constitution which may be invoked to nullify legislation regulating private property. Economic individualism may be and is limited by ordinary legislation to the degree that the parliamentary majority of the day desires such limitation. The Constitution does not specify substantive legislative powers, but is concerned rather with the machinery and procedure of government. The courts are required to respect the will of Parliament in interpreting the law. The so-called "radical excesses" of parliamentary behavior can be tempered and corrected, if need be, by subsequent political debate and popular demand. The French traditions of government are so

<sup>9</sup> Occasionally, when strongly conservative governments have been in power, radical teachers have been subject to petty persecution for participation in demonstrations for pacifism or birth control, etc., but not for long.

<sup>10</sup> As evidenced, for example, by resolutions passed in their national congresses of 1933 and 1935, calling for a general strike against war.

far from being in any sense "federalistic" that the *judicial* determination of legislative power has little meaning for Frenchmen. Since the World War some agitation for the judicial review of *legislation* has appeared in conservative quarters; but it has made little headway. An admirable type of special judiciary has, however, been evolved to control abuses of *administrative* power. How this administrative judiciary works will be explained in Chapter X. What is important to remember here is that the French people have developed no such constitutional "fetishism" as has been prevalent in the United States. They are satisfied to base their régime of "constitutional" liberty upon sociological foundations—the restraints of tradition, public argument, and political fair play. So it is that the Constitution of 1875, to which we now turn our attention, "is a religion without dogma."

### 3. *Parliamentary Institutions*

In spite of the dramatic vicissitudes that marked the political history of France from 1789 to the collapse of the Empire of Louis Napoleon, a definite gravitation toward the acceptance of parliamentary institutions may be discerned. Once the rigors of the first Napoleonic dictatorship were passed, it was to the British example, long since popularized in France by Montesquieu, that the constitution-makers of the Restoration turned for guidance. Designed for a "liberal" monarchy, the Charter of 1814 was openly copied from the British cabinet system. Still more, after the "July Revolution" of 1830, the constitutional basis of Louis Philippe's monarchy got its inspiration from across the English Channel. The Revolution of 1848 ushered in a radicalistic republican régime much more democratic in type than the previous constitutional monarchies—only to fall in four years before Louis Napoleon's demagogic machinations. Although his *coup d'état* of 1851 caused a temporary desertion of constitutional democracy for a "veiled despotism," it was not long before an undercurrent of liberal discontent compelled the Third Napoleon partially to restore the forms of responsible cabinet government. By the time the War with Prussia came, the personal rule of the Emperor was steadily receding before the forces of representative democracy.

In a fundamental sense, this process was more important

in fixing the forms of the Constitution of 1875 than the immediate conflict between the monarchists and republicans which raged in the Constituent Assembly. It is true that a majority of the members of this Assembly were sympathetic to monarchy. Moreover, the sanguinary excesses of the Paris Commune made it definitely conservative in temper. On the other hand, the Assembly had not been elected on the constitutional issue of monarchy *versus* republic. Half of France was still under the control of the victorious German armies when the elections of February 1871 were held. An armistice had been declared and the primary question was whether peace should be concluded or the war continued. Under the fiery leadership of Gambetta, the republicans urged that the country "fight to the end." The conservative monarchists, on the contrary, stood for immediate peace. Longing more for peace than anything else, the country, through the voice of complete manhood suffrage, returned an anti-republican majority.

This majority, however, was not united on the constitutional question. One group, about 150 in number, favored the restoration of the so-called "legitimist" Bourbon line, for which the Comte de Chambord sought the throne. Another element, 200 in all, were "Orleanists" advocating the claims of the younger branch of the Bourbon house, which was represented by the Comte de Paris, a grandson of Louis Philippe. A much smaller group were Bonapartists. Opposed to this split monarchist majority were some 200 deputies of more or less convinced republican views. It was the refusal of the Legitimists to accept the Revolutionary "tricolor" as the national emblem which ultimately enabled a Republican-Orleanist coalition to put through a republican Constitution. On the advisability of providing a government in which the political executive should be responsible to a popularly elected legislature of some sort, there was no marked disagreement in the National Assembly.

External political necessities likewise converged to serve the cause of republicanism. When the Assembly convened at Bordeaux in February 1871, a provisional republic had already been in existence since its proclamation in Paris by Gambetta the previous September.<sup>11</sup> The country had to have a govern-

<sup>11</sup> In commemoration of this event, a prominent Paris street today bears the name of the *Rue du Quatre Septembre*.

ment. Thus the first important act of the Constituent Assembly was to designate the famous historian, Adolph Thiers, who had been elected as a "partisan of peace" in twenty-six different election districts, to act as chief executive for the time being. Meanwhile, once the Treaty of Frankfurt had removed the danger of a renewal of war, the country manifested a markedly different attitude toward the parties on the constitutional issue, and there was little doubt which side would be victorious if a fresh election were held. In August a law was voted which extended the term of Thiers as chief executive to three years, conferred upon him the title of "President of the Republic," made him politically responsible to the Assembly, and allowed him to appoint and dismiss cabinet ministers within the limits of this responsibility. At the same time, Thiers retained his position as a member of the Assembly and as such could intervene personally in its debates. This relationship exposed the Executive to the danger of having his policies defeated in the chamber. Increasingly irritated by his anomalous situation, Thiers demanded in November 1872 that the Executive be accorded greater independence as regards the legislative Assembly. The Law of 13 March 1873 attempted provisionally to adjust this issue by distinguishing in several particulars between the political responsibility of the ministers and that of the chief executive. But when the Government of M. Thiers presented further proposals with a view to completing a "republican" constitution, the Assembly rejected them by a close vote and Thiers submitted his resignation. The Assembly then chose Marshal MacMahon as President in his place. In November, MacMahon was granted sovereign executive power for a term of seven years without the possibility of removal. Constitutional in effect, this Law of 20 November 1873 is the origin of the seven-year presidential term which was later to be incorporated into the definitive Constitution of the Third Republic. A commission of thirty members was elected by the Assembly to prepare this Constitution.

By now, the Assembly having been in session for nearly three years, the country was evincing a growing impatience with its procrastinations. Either it should proceed to formulate a constitution, which would have to be republican, or it should put an end to its own life and arrange for the election of a new and truly *constituent* convention. The upshot of the

matter was that the Commission was instructed to set to work. It was another year, however, before a definite decision could be reached on how future presidents should be elected and what their term of office should be. The refusal of the Comte de Chambord once for all to give up the white *fleur-de-lis* of the Bourbons destroyed any chance of a permanent alliance between Legitimists and Orleanists, for the latter realized that the country was in no mood to abandon the tri-color flag. This paved the way for a compromise majority of Republicans and Orleanists which was able on the night of 30 January 1875 to pass the famous "Wallon Amendment" by the narrow margin of a single vote. The man responsible for this "great compromise" has been accorded by French historians the honor of being the "Father" of the Constitution of the Third Republic.

The principal issue turned over whether Parliament should include a second chamber, and if so, how it should be composed. By accepting the Wallon Amendment, the republican Left not only accepted the principle of a Senate, but conceded that a fourth of its members should be appointed for life and that the rest should be chosen by local electoral colleges in which representatives of the rural *communes* were to have a dominant voice. This arrangement was intended to provide a "conservative" brake upon the popularly elected lower house; and the chief executive was to be elected every seven years by an absolute majority of the two houses of Parliament. It was further decided that the Chamber of Deputies might not be dissolved by the President without the consent of this conservative Senate.

Once a decision was reached on these vital questions, it was possible to adopt on 25 February 1875 the full text of two constitutional laws: (1) on the "Organization of the Public Powers" and (2) on the "Organization of the Senate."<sup>12</sup> Still a third law was deemed necessary in order to complete the parliamentary framework of the Republic. Enacted on 16 July, this law on the "Relations of the Public Powers" consists of a series of miscellaneous provisions governing the time and length of sessions of Parliament, its internal organi-

<sup>12</sup> Technically, the latter law passed the Assembly on the 24th, but with the proviso that it should not be promulgated until after the former law was adopted. For an English translation of these laws, cf. the *Source Book*, II—7-14.

zation, the privileges and immunities of its members, and the legislative and treaty-making process. Taken together, these three organic laws form the written Constitution of the Third Republic.

The outcome of five years of stubborn conflict among rival party groups, this Constitution was greeted with little enthusiasm by its makers. Previous French constitutions had usually been the work of a single victorious party; that of 1875 was a "hang-dog" affair, like "a Cinderella slipping noiselessly between the parties who despised her."<sup>13</sup> The document was "just a compromise," declares M. André Tardieu, who served under it as Prime Minister many years later, "between a Right Centre, which only accepted the Republic in the hope of substituting for it later the Comte de Paris [the Orleanist pretender], and a Left Centre which, in order to get a Republic right away, overlooked everything else and left democratic reforms for a later date."<sup>14</sup>

This mainly explains why such an easy method of formal amendment was inserted in the Constitution. All that is necessary to effect a revision is (1) that the Chamber and Senate, on their own initiative or at the request of the President, shall pass separately by simple majority vote a resolution declaring revision to be necessary; (2) that after this action the two houses shall meet together as a "National Assembly" at Versailles; and (3) that the latter body shall vote by an absolute majority of its members such resolutions of amendment as it desires.<sup>15</sup>

Whether the powers of the National Assembly with regard to constitutional change are limited to the subjects included in the initial resolutions passed by the Chamber and Senate is a controversial matter. Conceivably, since the Constitution itself is vague on this point, it would appear that there is nothing to prevent the Assembly from undertaking *total* revision just

<sup>13</sup> J. Barthélemy, *The Government of France* (New York, 1924), p. 20.

<sup>14</sup> In his *France in Danger* (London, 1935), p. 154. By permission of Denis Archer, publisher.

<sup>15</sup> Art. 8 of the Law of 25 February 1875 on the Organization of the Public Powers. "The process of amending the Constitution is described in political slang as 'going to Versailles.' The Frenchman, notoriously static, detests travel. Horror of that train-trip of two hours may be in part responsible for the fact that only thrice in sixty-one years has Parliament 'gone to Versailles.'"—R. L. Stokes, *Léon Blum: From Poet to Premier* (New York, 1937), p. 228. By permission of Coward-McCann, Inc., publisher.



as though it were a constitutional convention directly elected by popular vote. Such, however, was probably not the intention of the constitution-makers of 1875, else they would not have placed the Senate in a position where its members might be outvoted two to one in the National Assembly by the members of the Chamber of Deputies.

In the three instances in which the Constitution has been amended, the National Assembly has in the main acted on the assumption that its competence is restricted to revising those articles or sections cited in the resolutions calling the Assembly into being. This was true in 1879 when article 9 of the Law on the Organization of the Public Powers was abrogated so that the seat of the Government might be removed from Versailles to Paris.<sup>16</sup> Five years later, when the Constitution was next amended, the controversy as to whether the Assembly had general "constituent" powers was the cause of spirited debate. By inserting into the Constitution a clause declaring ineligible for the office of president all members of former "reigning" families in France, the Assembly acted entirely on its own initiative. Concurrently, however, it gave the thesis of "limited revision" special recognition when it added to the same article the following provision: "The republican form of government may not be the object of a resolution of amendment." In control of both houses of Parliament for the first time since the adoption of the Constitution, the Republicans desired to end the "provisional" basis of the Republic by making a solemn "constitutional" affirmation of its permanence. While they realized that this was at best only a paper barrier against future changes of régime, it had an important political significance: no longer were the monarchists in a position to realize their hopes for royal restoration.<sup>17</sup>

<sup>16</sup> Versailles had been designated in 1875 for the purpose, so to speak, of keeping the Government from feeling too directly the temper of the traditionally "revolutionary" Parisian populace.

<sup>17</sup> The revision of 1884 covered three other matters: (1) the provisions specifying how the Senate was to be chosen were deleted from the text of the Constitution so that its composition might thereafter be determined by ordinary law; (2) the time that may intervene between dissolution of the Chamber and new national elections was shortened from three to two months; and (3) the quaint requirement that "on the Sunday after the opening of a Parliamentary session, public prayer shall be addressed to God in the churches and temples," was repealed.

The only other time that the Constitution has been formally altered was in 1926. On this occasion the Poincaré Government, facing a severe financial crisis, considered it advantageous, with a view to restoring public confidence in the Treasury's ability to redeem State obligations, to provide a constitutional sanction for the new sinking fund which was then being set up. Accordingly, an article was added to the Constitutional Law of 25 February 1875 proclaiming the "autonomy" of this fund and earmarking certain specified revenues for its use. At Versailles, in 1926, the National Assembly overwhelmingly sustained M. Poincaré's defense of the doctrine of limited revision by refusing to consider a communist proposal to abolish the Senate and restrict the right to vote to "workers" eighteen years of age and above.

Within the context of the parliamentary system, the Constitution of 1875 has been modified far more by custom, usage, and ordinary statute than by formal amendment. Indeed, it smacks almost as much of custom as the British Constitution. We shall see in later chapters how such important matters as budgetary procedure, the status of the Prime Minister, the President's suspensory veto, and the power to dissolve the Chamber of Deputies have evolved in practice. As already indicated, the written Constitution is in reality a brief, fragmentary document which says nothing regarding civil liberty, administrative organization, taxation, or the courts. It is the product of "historical necessity," without logical form or completeness. In its declarations of ideals and general principles, so dear to Frenchmen, are absent. It is little wonder, therefore, that no "cult" has grown up around the document. This may be one reason why it has so securely survived two generations of peace and war. Criticism of its provisions is always abundant and proposals for its reform are numerous. Whenever the majority of Frenchmen decide to transform or even to supplant it, they may do so without recourse to any long or involved procedure. It offers no real bar to revolution. In the last analysis, what constitution does? So long as Frenchmen remain loyal to the spirit of parliamentary democracy, the Constitution of 1875 is likely to remain substantially unaltered, but no longer.

## CHAPTER III

### POPULAR REPRESENTATION

In a constitutional democracy the formulation of public policy is necessarily and properly a many-sided process. Were this not so, the governmental system would scarcely deserve to be called *democratic*. If, in the last analysis, it is the electorate that determines the general direction of national policy, there are multiple channels through which the community's purposes may be articulated and woven into the fabric of law. In France, these channels include, first and foremost, a free political party and electoral system through which the national legislative and executive leadership is selected. An analysis of these mechanisms of popular representation forms the subject-matter of the present chapter. It will be followed by an examination of how legislative policy is shaped by the interplay of cabinet leadership and parliamentary discussion, the pressure of interest groups, and the influence of the administrative bureaucracy and citizen advisory bodies.

#### *1. The Multiple Bases of Political Cleavage.*

Accustomed to the relative simplicity of having two major political parties alternatively in control of their national government, Americans find it hard to fathom the baffling complexity of the multi-party pattern of French politics. In France no single party is ever strong enough to win a clear majority in the Chamber of Deputies. Government by coalition is therefore inevitable. Why is this so? The query is not easy to answer, for the multiplicity of French party groups is the composite result of many factors in the political complexion of the country.

First of all, as suggested in Chapter I, the Revolution of 1789 produced scars on the political face of the nation which

are still not entirely healed. The conflict between authoritarianism and republicanism left in its wake an irreconcilable group of monarchists, who, although small in numbers, enjoyed a revival in intellectual influence for a time following the World War. The Church issue, which broke out anew after the Dreyfus Affair, provoked the formation of an uncompromising anti-clerical party—the Radical-Socialists—on the one side, and tended to divide the forces of conservative republicanism on the other. While opposed to monarchy as a form of government, these conservatives varied so much in the intensity of their opposition to the separation of Church and State that they could not organically unite on a common support of State *non*-interventionism in economic affairs.

The second factor making for political subdivision was the rise of labor radicalism as a protest against the evils of industrialism. Organized socialism entered the arena of politics—only to be rent asunder, after the Russian Bolshevik Revolution, by the issue of communism. The rise of proletarianism has had the effect of forcing the upper bourgeoisie further and further toward the right. In fact, it may almost be said, with André Siegfried, that ever since the national workshop program of Louis Blanc's socialists in 1848, the bourgeois "has shown himself in his true conservative colors, for he has abandoned, one after another, all the ideals he learned at the time of the Revolution."<sup>1</sup>

To the influence of historic irreconcilablism and economic strain must be added the capital rôle played by the individualistic temperament of the Frenchman. For more than the Anglo-Saxon, he "is very prone to go to extremes when ideas are in question. . . . Truth is truth, and there is only one truth."<sup>2</sup> This tendency to push abstract ideas to their logical conclusion may be seen in all aspects of French life from philosophy to politics—in the literary salon, in musical criticism, in the defense of theses in the universities, in journalism, and at the tribune of Parliament. The highly refined art of conversation in France is characterized by a rigor, an inflexibility, and an intellectual fervor which is rarely to be observed in America or England. The development of self-

<sup>1</sup> *Op. cit.*, p. 40.

<sup>2</sup> J. Feuilleurat, *French Life and Ideals* (New Haven, 1925), p. 174. By permission of the Yale University Press, publishers.

expression is the supreme objective of French education. Add to this the nervous tempo of the individual and the result is more often than not "impulsive, sudden, and almost explosive action" on the political stage. Whenever a small nucleus of leaders develop a slightly different point of view or emphasis from that held by the party to which they belong, it takes but little provocation for them to "secede" and organize a party of their own. The history of the Third Republic, not to mention the earlier régimes of the nineteenth century, is strewn with the wreckage of embryonic and short-lived political movements of the most divergent type. Since 1900, well over thirty different parliamentary groups have emerged, more than half of which are no longer in existence. This ultra-individualism is curiously exemplified by the presence in every Chamber of Deputies of a sizable handful of members who refuse to enroll in any party group, although even they have been known to organize as the *non-inscrits* in order to secure committee recognition.

French politics is cast in a mould whose distinguishing contours are intellectual intensity, fervid enthusiasm, emotional bitterness, and organizational fluidity. Much of the time the tumult and the shouting are concerned with nuances of abstract principle over which practical compromise cannot be reached until intellectual exhaustion compels it. In the meantime, however, a brilliant oratorical feat before a party congress or in the Chamber of Deputies may pave the way for some party shift or group bifurcation. Part and parcel of this Gallic individualism is a proneness to indulge in intrigue for personal advantage. A skilful politician inveigles a few ambitious associates into forming under his leadership a separate "group" in the Chamber, by dangling before them the prospect of membership on important parliamentary committees or ministerial appointment. He can then go to the next premier-designate and offer their support in return for so-many posts in the new cabinet for "*mes amis et moi*," or threaten the refusal of support in case the request is denied. An additional piece may thus have to be fitted into the party kaleidoscope—at least for a while! So the game goes merrily on.

Yet it must not be supposed that these behavior tendencies make merely for political confusion and ineptitude. Despite the fact that the bonds of French party discipline are lightly

held (except in the more advanced groups of the Left), and men—followers and leaders alike—shift easily their political allegiance, the group system possesses certain saving graces. Since it allows for the facile blowing off of “political steam” from day to day, both between and during electoral contests, it tends to operate as a force for stabilization, or, perchance, as an alternative to class war. Government by coalition must in the end be government by continual compromise, even though there may be a disconcerting succession of cabinets before any concrete program can gain the assent of a parliamentary majority. What is more, whenever the country faces a severe crisis, such as the Great War of 1914-18, the monetary inflation of 1926-28, or the turbulent events of 1934, political truce replaces internecine party warfare and a broadly “national” coalition in Parliament confers power to act upon a “national” executive. For the time being, ideological hair-splitting yields to the demands of patriotic solidarity.

Apart from such periods of national emergency, an approach to “bi-party” government in the Anglo-Saxon sense is realized in France by the formation of two opposing coalition blocs on the Right and Left respectively. This was the case when the conservative *Bloc National* was in power from 1919 to 1924; again, with the dominant *Cartel des Gauches* from 1924 to 1926; still more recently, with the Popular Front of 1936. While these combinations are merely coalitions, they are held together by certain common principles and legislative objectives—for the time being. The precarious life of such “blocs” is well illustrated by the crashing of the *Cartel des Gauches* on the rocks of monetary chaos in 1926, and again by the upheaval produced by scandal and depression in 1933-34. But so long as the blocs hold together, the division of Parliament into ten or fifteen nominally separate party groups is reduced for practical purposes to two major “super-parties,” plus a few minor groups that nearly always refuse to join the dominant alignments. Up to 1936 the Communist party pursued such a policy of non-coöperation, while the Socialists, although they allied themselves with the moderate left (Radical-Socialists principally) for electoral purposes and supported Left Bloc governments on most issues, refrained from participating directly in cabinets of a “bourgeois” complexion. When, in 1936, the Socialists be-

came for the first time the largest single party in the Chamber, this policy was abandoned and their leader, Léon Blum, was authorized by the party to head the new Popular Front Government.<sup>3</sup>

Regardless of the alignment of party groups at any given time, the underlying political cleavages of the French electorate may be identified under not more than four or five heads. Roughly, these are the following: (1) *conservative*, including monarchist and quasi-fascist elements; (2) *moderate*, constituting today the right center, (3) *liberal-progressive*; (4) *reformist socialist*; and (5) *communist*. Whether the recent reorientation of communist strategy toward coöperation with other Left groups will lead to a reshuffling of the Socialist and Communist parties remains to be seen. In such an event, it is highly probable that the Trotskyite faction of the Socialist organization will refuse to join the union, form an independent party organization, and thereby succeed to the position of revolutionary extremism which was held by the "orthodox" Communists of the Third International from 1920 to 1936.<sup>4</sup>

If this should happen, it would illustrate what may perhaps be called a law of French politics since the founding of the Third Republic. With the exception of the period 1919-24, there has been an almost continuous evolution of party labels toward the Left.<sup>5</sup> "Leftwardness" is a national political habit. Considered separately, however, each party has swung "rightward" in doctrine as it has approached the acquisition of power. This makes party names still more misleading. The term "conservative" is virtually taboo in official

<sup>3</sup> Earlier Socialist leaders, such as Millerand, Briand, and Viviani, had taken cabinet posts, but without party approval. Once in office they drifted away from their earlier socialist views and were thereafter stigmatized as "renegades" by their former comrades.

<sup>4</sup> Léon Trotsky's *Whither France?* (English translation by L. G. Wright and H. R. Isaacs, New York, 1936) gives an illuminating diagnosis of the French political outlook from the point of view of the head of the "Fourth International." In April 1937 it was reported from Moscow that the French Communist Party included 280,000 Trotskyites. *Manchester Guardian Weekly*, 30 April 1937.

<sup>5</sup> Siegfried amusingly illustrates this leftward "progression" by the following story: "I remember hearing of a man in the Department of Herault who, on meeting the local member who had been put up as a Radical-Socialist six months earlier, asked to what party he then belonged. 'Radical-Socialist, the same as you elected me.' 'You don't say so,' was the priceless reply. 'Then you are making no progress!'" *Op. cit.*, p. 35.

party terminology. Even the royalists called themselves "independents" when they still had a few representatives in the Chamber of Deputies. Conservative groups vie with one another in claiming the label "republican" or "democrat," often qualified by the phrase "of the left," or the adjective "popular," so that they may pose as loyal upholders of the historic republican tradition. In similar manner, the label "radical," which has come to be almost interchangeable with "republican," has been appropriated by certain groups located well to the right of the axis of the Chamber. The fluid predominance of "leftish" labels may be illustrated by the party terminology which prevailed in the Chamber of Deputies at two different periods of recent date:

DECEMBER 1930		JUNE, 1936	
(Reading down the list, the order is from extreme Right to extreme Left).			
Right	{ Popular Democrats Democratic Republican Union Democratic and Social Action Left Republicans Social and Radical Left Radical Left	Independent Republicans	Right
"Bloc"		Republican Federation	"Bloc"
		Popular Action	
Majority		Social Action and Agrarians	Minority
	Left Republicans		
	Popular Democrats		
		Democratic Left	
		Independent Radicals	
Left	{ Independent Left Republican Socialists Radical-Socialists French Socialist Party Socialists (S. F. I. O.) Communists	Independent Left	Popular
"Bloc"		Radical Socialists	Front
		Social and Republican Union	
Minority		Socialists (S. F. I. O.)	Majority
	Dissident Communists		
	Communists		

Upon the uninitiated, these two lists can not help producing an impression of bewildering confusion. So volatile are the lines of demarcation between moderate and center groups that the official party line-up may change several times, through fusion, scission, and reorganization, during a single parliamentary term. Near the center aisle cluster a variety of small moderate groups from whose leadership have come a disproportionate number of ministers.

Party fluidity is illustrated by two other curious facts. One is that the names of Senate and Chamber party groups do not coincide; the other, that there is no complete correspondence between parliamentary parties and national party or-



ganizations.<sup>6</sup> Only the powerful groups of the Left—the Radical-Socialists, Socialists and Communists—maintain independent, continuous national organizations. Conservative party groups utilize a rather loose electoral association, the dominant element in which is the section of the Chamber known as the Republican Federation, but to which certain smaller groups and independent candidates attach themselves during electoral campaigns. A still more tenuous electoral grouping of parliamentary center parties exists under the name of the Democratic Alliance. It is by and through these four or five major organizations that candidates are nominated, issues are formulated, and national campaigns for votes are conducted.

## 2. *The Pattern of Party Organization.*

The establishment of party organization, for electoral purposes, did not take place in France until after the turn of the century. A glance at the dates at which the chief existing parties were formally established will show how youthful they are:

- 1901—Radical and Radical Socialist Party
- 1901—Democratic Republican Alliance (reorganized in 1920 and 1936)
- 1903—Republican Federation
- 1905—Unified Socialist Party (S. F. I. O.)
- 1906—*Ligue de L'Action Française* (Royalists)
- 1920—Communist Party (split-off from S. F. I. O.)
- 1924—Popular Democratic Party (Christian Socialism)
- 1936—Socialist and Republican Union (a fusion of several moderate socialist and independent elements)
- 1936—French Social Party (La Rocque) } Fascist Groups
- 1936—French Popular Party (Doriot) }
- 1938—Workers and Peasants' Social Party (Trotskyite)

Representing the oldest and strongest office-holding party during these thirty-eight years, the Radical-Socialist set-up may be considered the organizational "prototype" for the

<sup>6</sup> In 1928, for example, there were seven party groups in the Senate and ten in the Chamber; in 1936, there were twice as many in the lower house as in the upper.

other "republican" groups. In essence, this party consists of a hierarchy of loosely organized local committees in the *communes* and cantons. These committees are federated into "county" units, i.e., by *départements*. In turn, the county federations send delegates to a national party congress, which meets once a year, or more frequently if an emergency demands an extraordinary session. It is in the national congress that the "sovereign" will of the party theoretically resides. The congress annually elects an executive committee for the direction of party affairs between its meetings. All senators, deputies, and the officers of the country federations are *ex officio* members of this national committee. The latter selects from its membership a small directorate, or *bureau*, whose duty it is to handle current party business and run the central office in Paris. One member of the *bureau* is designated as its president, who thereby becomes the president of the party. Half of the members of the *bureau* must be members of the party's parliamentary group. The *bureau* appoints the general secretary of the party.

In addition to choosing the executive committee, the party congress possesses the power of making and revising the party's constitution and by-laws. It also lays down the general principles which are supposed to guide its representatives in Parliament, as well as the local party units throughout the country. In matters of discipline, it acts as a court of final appeal from the decisions of the party executive committee. Only in unusual circumstances, however, do attempts to discipline recalcitrant party leaders prove effective. The most extreme penalty, expulsion from the party, is rarely resorted to. Individual membership in the party may be obtained by application to the appropriate local committee. If approved, the applicant receives a party card by paying two francs. Thereafter he is annually assessed party dues, which must not be in arrears if he wishes to participate in party work as a member in good standing. While all such members nominally belong to the local communal or cantonal committee, only a small number take an active part in its functions. Membership in the party is also open to those newspapers that agree to support party policies, provided they pay annual dues of twenty-five francs. A further regular source of revenue is the annual assessment of 1000 francs which all

deputies and senators must pay into the party treasury. In addition, each local committee is expected to contribute ten francs to the national office.<sup>7</sup>

Like all the parties of the center and right, the Radical-Socialist organization operates between national campaigns on what, by American standards, would be considered an exceedingly small budget. In addition to regular dues and assessments, some money is obtained by selling party literature (brochures, pamphlets, etc.) and by donations from wealthy members; but not a great deal. Funds for campaign purposes come mainly from sources outside the party. The majority of candidates rely chiefly upon their own resources, comparatively few receiving substantial aid either from "county" or national headquarters. Large subscriptions to the party fund are, however, not unknown. These emanate principally from commercial and farm organizations desirous of furthering Radical-Socialist policies. Now and then party newspapers will organize popular subscriptions, but their net proceeds are seldom large.

As one moves "rightward" from the Radical Socialists, party machinery becomes less extensive and the effort to maintain a disciplined hierarchy of local and regional organizations increasingly tenuous. Except for the Republican Federation, which includes a façade of local associations and a national council, and until recently the royalist and fascistic political leagues, the other groups consist of little more than of a headquarters staff in Paris. On the other hand, the advanced parties on the Left strongly reveal the imprint of the socialist conception of a popularly disciplined solidarity. Both the Socialist and the Communist party pyramid is built upon the cell, or *section*, which is formed in each *commune*. Representation in the higher party organs conforms roughly to the hierarchical scheme of indirect election of delegates which prevails in the Communist party of the U. S. S. R. In general, membership dues are higher and more effectively collected, while all important votes of the parliamentary group of the party must conform to the decisions of the national party congress or executive council (plus, in the case of the Communists, the Third International, of which they constitute the French Sec-

<sup>7</sup> Apparently, this requirement is not fully enforced. During 1929, for example, only 527 out of 838 committees paid their assessment.

tion). The parliamentary group is thus reduced to a tool of the national organization. With the Communists, also, authority is exercised from top to bottom through the party hierarchy; whereas in the Socialist organization each deputy is subject, nominally at least, to control by the "county" federation to which he belongs. It may request his resignation in case he refuses to follow instructions.

The radical parties differ from the center and conservative groups in another respect. Because of their interest in comprehensive social reform (if not revolution), the former devote much of their time, money, and energy to the task of "educating" their followers and attracting outsiders into their ranks. From their central offices flows a constant stream of propagandist material—books, brochures, pamphlets, hand bills, and postcards.<sup>8</sup> This is also true of the Radical-Socialists and the Republican Federation, but on a more modest scale. In order to carry on this activity, a considerable number of paid positions on research and editorial staffs at party headquarters offer career opportunities for qualified young party workers.

### 3. *Candidates and Campaigning.*

The nomination of candidates for the French Chamber of Deputies is, in comparison with American practice, a highly informal procedure. The only legal requirement is that, at least eight days prior to the polling, a written "declaration" of candidacy be filed at the prefecture. This declaration must establish the eligibility of the candidate, as well as indicate in what electoral district he proposes to run. No petition signed by a specified number of voters is necessary (as in the United States), nor is the candidate required to make a deposit of money (as in England). While he must be a property-owner, residence in the electoral district is unnecessary, though the close tie-up between local and national politics makes it desirable that the overwhelming majority of candidates should

<sup>8</sup> Suggestive examples of publications of this character are: Blum's *Pour Etre Socialiste* (1926), Guesde and Lafargue's *Pourquoi l'Avenir est au Socialisme* (1925), and Chichery's *Le Problème agricole et le Parti radical* (1935). The research activity of French parties, while considerable, does not compare in extent with that of British parties. Cf. H. L. Stoke, "Propaganda Activities of British Political Parties," *American Political Science Review*, Feb., 1936.

actually live in their constituencies.<sup>9</sup> Within twenty-four hours after the declaration is received, the prefect, if satisfied that the candidacy is legally valid, delivers an official certificate to the candidate, who thereby becomes entitled to present himself before the voters on election day. Candidates are normally chosen by the party organization of the *département*. Men seeking the "nomination" appear before a meeting of the departmental federation two or three months in advance of the election and submit their claims for consideration. After some debate, the meeting, suggestive of the old type of congressional nominating convention in America, decides by majority vote who shall represent the party in each of the constituencies composing the *département*. Only those who are members in good standing for at least a year and who agree to abide by the party's national program may be selected as official party standard bearers. Before the departmental federation "nominates," the central office of the party is consulted. In case the latter indicates disapproval of a candidate, he may be chosen only at the risk of subsequent disciplinary action against the local organization.

Local politicians build up their claims to the nomination in various ways. In those rural areas, such as Brittany and Normandy, which are conservative strongholds, the tradition of passing along the nomination from father to son is still strong, even though declining. This quasi-hereditary type of candidate is also to be found in certain districts where "old-styled" radicalism prevails, e.g., in southwestern France. The more typical method of "getting the nomination," however, involves an extensive apprenticeship in local politics. Young aspirants enrol in the party, faithfully attend the meetings of the committee at the local café, play cards and drink (though seldom intemperately!) with the active party "wheel horses" (*comitards*), and gradually establish themselves as loyal party workers. They listen to speeches from deputies and senators back home from Paris. Little by little they themselves actively participate in public meetings and political celebrations by speaking (not too long!) or by preparing a report on

<sup>9</sup> There are, however, some exceptions, particularly in the case of Parisians who stand for election in "provincial" constituencies. Thus M. Blum, a life-time resident of the Capital, has since 1929 represented a wine-growing district (Narbonne) in the South of France.

some local matter. After a time the more promising aspirants are rewarded by election to a municipal or departmental council. Some of them may become mayors of their communes. By then they are in line to be considered for nomination to the Chamber.

The free and easy method by which men may enter the electoral lists produces an unusual number of "independent" candidates. The motivation behind these non-party candidacies is varied: in some cases, the object is to secure publicity for business or professional purposes; in others, it is simply the personal amusement to be derived from advocating highly original or freakish ideas in the campaign. Under such conditions, what with a multi-party system, the total number of candidates for the Chamber in any given election reaches formidable proportions. For the last three contests the totals for the entire country were as follows: <sup>10</sup>

<i>Year</i>	<i>Total Number</i>	<i>Average per Election District</i>
1928	2763	5 minus
1932	3837	6 plus
1936	4815	8 minus

What these figures mean is that the individual voter ordinarily has before him a choice of one among five to eight candidates. If all political parties ran candidates in all of the 600 or more election districts covering the country, the number of candidates would be even greater. In reality, only three or four of the *major* parties attempt to do this even in a majority of the constituencies, while many of the minor groups are represented by candidates only in those areas where their popular strength is sufficient to warrant some hope of victory in the poll.

French national elections cover a much shorter period than American presidential campaigns. The decree calling for an election must be issued by the Minister of the Interior at least twenty days prior to the date set for the polling. It is during this relatively brief period that active campaigning is concentrated. The campaign opens with the publication of election "manifestos" by the central party organizations. While these declarations of party principles usually emanate from

<sup>10</sup> Compiled from figures given in *Le Temps* (Paris), 20 and 27 April 1936.

the national council or executive committee of the party, they are sometimes formulated well in advance by the party congress itself. In addition to *party* platforms, a *coalition* group may put before the voters a joint program. This procedure was conspicuously employed by the Popular Front in the 1936 elections. In times past candidates were wont to announce local "professions of faith," designed to fit the situation in their own constituencies. With the rise of stronger central party control, this practice has greatly declined, except in the case of nominees of minor and ephemeral parties and, of course, of candidates standing as "independents."

The extent to which national party platforms influence a campaign depends upon whether or not it is a struggle waged over political principles or over personalities. The difference may be seen by comparing, say, the 1928 and 1932 elections with the contest of 1936. The first of these campaigns was fought around a single leader, Prime Minister Poincaré, the capital issue being whether he should be returned to power with a "blank cheque" to carry on as head of the National Union government which had been formed two years earlier to "save the franc." In 1932 the struggle was essentially between Tardieu, the conservative Premier, and Herriot, the recognized leader of the Left opposition. On the other hand, the issue in 1936 turned upon whether the program of the Popular Front should prevail against the allegedly "fascistic" forces which were seeking control of the Republic. No one was sure what individual leader would head the government in case of victory by either side.

The technique of popular campaigning involves the utilization of appeal devices common to all democratic communities, in addition to a few which are peculiar to the French. National political leaders travel about the country and make speeches in important provincial centers, as well as in their own districts. Candidates of lesser importance engage in a more informal and intimate type of local campaigning. In the smaller towns and villages a favorite procedure is for the candidate to move from café to café, "setting up" the drinks and greeting his "fellow citizens" with a few felicitously phrased observations. Questions from the room are freely and vociferously put to the speaker and a spirited interchange of ideas ensues. In the larger and more formal meetings held in cities, "heck-

ling" is also common. Here, however, the occasion is conducive to full-stage oratory—punctuated by frequent outbursts of Gallic enthusiasm from the audience.

Wide use is made of printed bulletins and placards. Official billboards are provided in each *commune* where these may be posted, each candidate (or list of candidates) being allocated equal space thereon by the municipal authorities. Multi-colored posters and comic scripts have also recently come into great favor. With keen Latin wit, caricature and slogan are cleverly employed either to embarrass one's opponents or to lure voters into one's own party camp. Airplanes from Paris nowadays shower bundles of campaign leaflets and handbills upon villages dotting the countryside. In 1936, for the first time, radio broadcasting was extensively utilized in a national campaign. According to law, time on the air must in principle be allocated equally among all parties, so far as the government-owned stations are concerned. There was some complaint however, that those parties represented in the Government were favored in the scheduling of broadcasts.

It is hard to say how much money is spent in a French national election. Campaign funds are not subject to legal regulation as in America. The best available study of the question made some years ago estimated that a parliamentary candidate will spend, on an average, between 40,000 and 50,000 francs (about \$1,600–\$2,000).<sup>11</sup> While this is a smaller sum than is spent by congressional candidates in America, the larger number of French candidates brings the national total up to an impressive figure—perhaps to three or four million dollars. In proportion to the size of the country, French elections are expensive. Only a relatively minor portion of the total sum is expended directly by the central party organizations, the Left parties spending the larger amount, since they give more financial aid to local candidates than do the conservative groups. Some large campaign gifts are received from wealthy individuals and big business corporations, but nothing like so much as in the United States. The rank and file are seldom systematically solicited for contributions. Since neither the amounts nor the sources of national campaign

<sup>11</sup> Cf. J. K. Pollock, *Money and Politics Abroad* (New York, 1932), pp. 284–304. According to this author, "probably one-fourth of the candidates in France finance themselves, dipping down deeply into their own pockets."



funds have to be published, the possibilities of secrecy and misuse of money would appear to be great. On the other hand, flagrant electoral corruption is believed to be rare.

#### *4. The Electoral System.*

For nearly a century manhood suffrage has prevailed in France. Since 1848 the electorate has included virtually the entire adult male population. Article 1 of the Constitutional Law of 25 February 1875 prescribes that the Chamber of Deputies shall be elected by "universal suffrage" under such conditions as shall be determined by law. "Universal" has thus far been interpreted to apply only to the male sex. All males of twenty-one years or over may vote provided they are of French nationality, have not been convicted of crimes entailing the loss of civil and political rights, or have not been legally adjudged insane.<sup>12</sup>

Contrary to the situation now prevailing in the Anglo-Saxon democracies, French women have not yet gained the right to vote. Since 1919 resolutions proposing woman suffrage have passed the Chamber of Deputies by overwhelming majorities on nine different occasions, but the Senate has so far refused to concur. If this seems strange to Americans, accustomed for nearly twenty years to voting by women, it must be remembered that in Catholic countries the social emancipation of women has come more slowly than elsewhere. Organized agitation for woman suffrage has only recently attained formidable proportions in France. The real reason, however, for the opposition of the French Senate to what is now generally considered an act of "democratic justice" has been the fear that the women, who have since the war outnumbered the men by two millions, would be unduly influenced by the Church in their use of the ballot. This largely explains why the "anti-clerical" majority that controls the Senate has so stubbornly blocked the action of the Chamber. It will be only a question of time, however, until the cause of woman suffrage is victorious. Despite the fact that they may not yet vote, thousands of French women hold positions (chiefly clerical) in the civil service and in the public schools. More significant still was the

<sup>12</sup> There is one further temporary disqualification: men are not allowed to vote while in active military service.

appointment of three women to be under-secretaries of State in the Popular Front government of 1936.

As one means of giving recognition to the social importance of large families, the adoption of plural voting by heads of families, in proportion to the number of their children, has been widely advocated in France.<sup>13</sup> Such recognition, so it is claimed, might indirectly help to retard the trend toward depopulation, and at the same time would conform to "sound principles" of social organization. Since, however, the proposal runs counter to the deeply ingrained notion of "equal" and "individual" suffrage, there is little likelihood that it will soon prevail.

Before they may cast their ballots, all qualified electors must be registered. In other words, their names must appear on the permanent electoral list which is maintained at the town hall of each *commune*. In order that the voter's name may get on this list, which is revised annually by a committee of local officials, one of the following conditions must be satisfied: (a) "legal" domicile in the *commune*, even though the voter may actually live elsewhere, (b) residence in the *commune* at least six months prior to the revision of the register, or (c) the payment of direct taxes in the *commune* for five years. Since no one may vote twice, each elector is obliged to choose the *commune* in which he desires to be registered—in case he has his business, say, in Paris, and prefers to vote in the suburban or rural locality where he lives, or vice versa. All in all, the French system of registration is simple, inexpensive, and convenient for the voter, although failure to remove the names of the dead and those who have moved away is not entirely unknown.

During the past generation the number of enrolled voters has ranged from 10,000,000 to 11,500,000, or about a fourth of the total population. In the legal sense, they constitute the "electoral army" of the Republic. So far as the national government is concerned, the individual voter casts a direct ballot for only one officer—his representative in the Chamber of Deputies, although at other times he also votes for members

<sup>13</sup> A proposition to this effect was actually voted by the Chamber of Deputies in 1923. The "family vote" has long been one of the planks in the Royalists' platform, from which it was recently borrowed by de la Rocque's *Croix de Feu*.

of municipal, district, and departmental (county) councils. Normally, national elections for the Chamber occur every four years. This regularity has resulted from the fact that since 1877 the Chamber has not been dissolved prior to the expiration of its legal term. In accordance with long-established custom in continental countries, the French electorate always goes to the polls on Sunday, when there are fewest workaday activities to interfere with the exercise of the suffrage. The national polling day is looked upon, especially in the rural areas, as an occasion for considerable social gaiety. Since 1913 secrecy in voting has been reasonably well protected by law. Upon entering the polling place, located in the town hall or a public school, the voter is identified by having his "electoral card" checked against the register. He then receives an envelope made of opaque paper, retires to the secrecy of the polling booth, inserts the ballot containing the name of the candidate for whom he desires to vote, seals up the envelope, and drops it into the ballot box outside. The Australian type of ballot, long prevalent in English and American elections, has not yet been adopted in France. Instead, separate ballots are printed either by the candidates themselves or by party organizations, and at their own expense. Containing but a single candidate's name, below which his party designation and occupation are usually printed in smaller type, the voting paper is quite small—about four by five inches in size—truly a "short" ballot! Prior to the polling day, candidates are allowed by law to send to all the voters in their district sample ballots, along with a limited quantity of campaign literature.

During the life-time of the Third Republic three different methods of electing deputies have been tried. For a brief period (1885-89), a general ticket system (*scrutin de liste*) was used. Under this arrangement the unit of representation was the *département*, each of which was entitled to elect from four to ten deputies, depending upon its population. The individual voter could cast a ballot for as many candidates as there were seats to be filled. Despite the fact that this system had long been advocated by Gambetta and his republican cohorts as more representative and less amenable to "official" pressure than the single-member district plan, experience with the former system proved unhappy for two reasons. Straight

party voting enabled the strongest party in most *départements* to fill the entire quota of seats, often by a mere plurality vote, leaving the lesser parties unrepresented. In addition, the system facilitated the demagoguery of General Boulanger who, by getting himself simultaneously elected at the head of his party ticket in several constituencies, emerged as the "man on horseback" fired by the ambition of becoming a Napoleonic dictator by way of a national "plebiscite." Consequently, Parliament in 1889 re-established the old plan of electing one deputy per *arrondissement*.

This plan, however, has given scarcely greater satisfaction. It is likewise open to the charge of not being "representative." Since the electoral divisions of the country conform to the boundaries of *arrondissements* with a population of less than 100,000 population, the ratio of deputy to electors is by no means the same in all cases. The Department of Les Basses-Alpes, for example, elects one deputy for 21,000 inhabitants, while in Le Nord, likewise with one deputy, there is a population four times as great. The metropolitan region of Paris is markedly under-represented. In dividing the larger *arrondissements* into two or more constituencies, Parliament has yielded to the temptation of "gerrymandering" the map so as to favor the re-election of existing members of the Chamber. Still more objectionable is the fact that a deputy may be elected by simple majority vote, provided it equals twenty-five per cent of the total vote cast. When this occurs, and it happens frequently, the votes cast by minority groups in a constituency have no weight in determining the membership of the Chamber.<sup>14</sup> Thus the size of party groups in the Chamber of Deputies may be far from proportional to the popular vote by which they were elected. In 1932 the difference between the number of seats actually won and the number that would have been obtained under a true system of proportional representation, was substantial:<sup>15</sup>

<sup>14</sup> The system used in electing the British House of Commons and the American House of Representatives may produce comparable results. It is not generally known that in the historic congressional elections of 1918, when President Wilson's party lost control of the lower House, the total Republican vote was considerably smaller than that cast for the Democratic candidates.

<sup>15</sup> Adapted from G. Lachapelle, *Les Régimes électoraux* (Paris, 1934), p. 164.

Party Groups (Listed from Right to Left)		Actual Number of Deputies Elected	Number Proportional to Popular Vote	Difference
Tardieu Conservative Bloc	Conservatives . . . . .	81	86	+ 5
	Independents . . . . .	28	32	+ 4
	Popular Democrats . . . . .	16	20	+ 4
	Left Republicans . . . . .	72	82	+ 10
	Independent Radicals . . . . .	62	60	- 2
Herriot Left Bloc	Radical Socialists . . . . .	157	115	- 42
	Republican Socialists . . . . .	37	33	- 4
	Socialists (S.F.I.O.) . . . . .	129	122	- 7
Extreme Left	Dissident Communists . . . . .	11	5	- 6
	Communists . . . . .	12	50	+ 38

In this case the electoral system operated in such a way as to give a distinct advantage to the parties of the Left Bloc, which won fifty-three more seats than their popular vote numerically warranted. If proportional representation had been in effect, the Tardieu coalition would have retained almost a majority of the seats and the Left Bloc as such could hardly have formed a government. Four years later, the strength of the Popular Front in the Chamber would have been reduced from 387 to 346 under P. R. The parties penalized most by the "plurality" system are those, notably the Communist, whose popular support is concentrated in relatively few constituencies which they carry easily, their strength in other districts thereby being dissipated. On the other hand, the Radical Socialist Party, whose popular following is widely distributed throughout central and southern France, is usually over-represented in the Chamber.

With such a multiplicity of parties as prevails in France, the "representativeness" of the electoral process is further affected by what is known as *ballottage*. This is the requirement for a run-off vote, one week after the initial poll, in all districts where no candidate receives an absolute majority on the first vote. The number of constituencies where this has been necessary has steadily increased during the last twenty-five years, as indicated by the following table:<sup>16</sup>

<sup>16</sup> From Lachapelle, *op. cit.* p. 158, and *Le Temps*, 3 May 1936 (for the 1936 election). The elections of 1919 and 1924 are omitted because they were held under a system of proportional representation.

<i>Election of</i>	<i>Number of Districts Requiring Run-Off Vote</i>
1910	227
1914	252
....	...
1928	422
1932	359
1936	424

It will be observed that, in each of the last three elections, from three-fifths to two-thirds of the constituencies have had to resort to *ballottage*. In the 1936 contest only three *départements* elected all their candidates on the first ballot, while in twenty-two others none was so chosen.

The interval between the first and second polls affords an opportunity for lively bargaining and maneuvering by party groups. More and more has it become the tendency for party leaders on the Right and the Left respectively to arrange for a "coalition" on the final vote. When this takes place, the candidate of the Left who has polled the highest initial vote stands alone on the second ballot against the strongest candidate of the Right. In a good many instances, new candidates are nominated during the week between the first and second polls with a view to augmenting the electoral strength of the coalition in the run-off vote. Thus the contest is generally narrowed down to only two (or at most three) candidates. So it was in ninety per cent of the 424 districts in which *ballottage* occurred in the 1936 election. A manifesto from the national headquarters of the leading Popular Front parties called upon their followers to concentrate upon the local candidate who had secured the largest initial vote. A similar appeal was launched by the conservative party organizations. Since a mere plurality is sufficient for election on the run-off vote, a considerable number of deputies may still represent minorities.

Election by *scrutin d'arrondissement* has been repeatedly attacked from another angle. "Official" influence, based upon the dispensing of local patronage and the promise of favors to candidates supporting the government in power, is facilitated when only one candidate is to be returned by a constituency. In the early years of the Third Republic ministerial circulars would be addressed to each prefect calling attention to the government's interest in the successful candidature of Monsieur so-and-so and directing the former to do all in his

power to swell the latter's vote. During the last generation, however, administrative intervention on behalf of "government" candidates has considerably declined. Nowadays the prefects are officially instructed to observe "neutrality" in election campaigns. Nevertheless, under the single-member district system, the individual deputy has tended to regard himself more as a "log-rolling" *delegate* of local interests than as the *representative* of the community in the larger sense. How this affects parliamentary behavior will be seen later.

With a view to mitigating inequalities of representation and diminishing government interference in elections, the adoption of proportional representation has long been advocated. After many years of agitation, the Senate and Chamber finally agreed in 1919 upon a measure which put into effect a hybrid compromise between the principles of proportional and uninominal representation. This law was such a travesty on P. R., however, that it satisfied no one. Failing agreement on a better scheme, the law was repealed in 1927 and the Republic returned once more to the traditional *scrutin d'arrondissement*. Electoral reform, however, is still the order of the day. Nearly all parties, in particular the conservative groups, profess to stand for genuine proportional representation. In July 1936 the Commission on Universal Suffrage of the Chamber voted overwhelmingly in favor of P. R., but action on the bill to establish it was postponed because the Socialist and Communist deputies insisted that the labor legislation then pending was far more urgent. "Bread for the workers first and then P. R.!" was the retort made to the taunts of the reactionaries.

It may be doubted whether any scheme of popular representation, no matter how nicely "proportional," would substantially alter the pattern of French politics. The possibility of consolidating the numerous, heterogeneous, and shifting party groups into a few strong, national, well-disciplined party organizations depends rather upon factors which are sociological in character. True P. R. might even aggravate the tendency of Frenchmen to express their ideological *nuances* in the terms of a fluid multiplicity of party units. Arithmetical ratios of representation are not particularly relevant to this complex problem.

Regardless of the type of electoral system in vogue, popular

participation in French national elections is relatively higher than either in the United States or in Great Britain. The percentage of enrolled electors who have gone to the polls in the sixteen elections since the establishment of the Third Republic has ranged from sixty-nine (in 1881) to eighty-four (in 1936). The following tabulation indicates that non-voting has steadily declined since the World War:<sup>17</sup>

<i>Election</i>	<i>Percent of Enrolled Voters Not Voting</i>
1914	23.25
1919	29.10
1924	16.97
1928	17.13
1932	17.49
1936	15.70

Despite the absence of political bosses in the American sense, or professional election agents as in England, to "get out the vote," there are certain special forces which impel Frenchmen to exercise the suffrage. These forces include (1) the priests, in those regions, especially northwestern France, where the Catholic Church is strongest; (2) the local school teacher and postmaster, particularly in the village strongholds of traditional "radicalism" south of the Loire; and (3) more recently, the disciplined drive of the socialist and communist movement in the industrial and urban areas. For this third reason popular participation in elections is nowadays greatest in the northeastern section of the country.<sup>18</sup> The simple and convenient procedure of registration is a further factor favoring a widespread use of the ballot.

Nevertheless, there has in recent years been some discussion of the desirability of enacting a *compulsory* voting law as a means of combating so-called electoral "indifference." Absentee voting, which is not yet legally permissible, might also somewhat decrease the number of electoral abstentions. In general, non-voting in France, as in other democratic countries, tends to diminish in proportion as the issues of a national election are clear-cut, easily grasped, and nationally significant. More than anything else, this fact accounted for the remark-

<sup>17</sup> As compiled in *Le Temps*, 22 April and 3 May 1936. In only one election (1877) prior to the War did non-voting fall below 21 percent.

<sup>18</sup> Cf. H. R. Gosnell, *Why Europe Votes* (Chicago, 1930), chap. II. for a detailed analysis of non-voting in France.



ably large popular vote in the 1936 elections which brought the Popular Front into office.

### 5. *The Senate.*

As originally set up in 1875, the French Senate was designed by its conservative founders as a bulwark against popular radicalism. It was presumably on this theory that members of the Senate were constitutionally required to be at least forty years of age. One fourth of their number were to be appointed for life, initially by the National Assembly, and subsequently by the Senate itself. The other three-fourths were to be chosen by local electoral colleges sitting in each of the ninety *départements* and including the following categories of electors: the department's quota of deputies, the membership of its general council and of the district councils (*conseils d'arrondissement*), and one delegate chosen by each municipal council. Under this scheme, with the large cities having no greater voice than the small towns and villages in the make-up of the senatorial electoral colleges, it was intended that the rural point of view should prevail and the Senate, in Gambetta's classic phrase, should become "the Grand Council of the Communes of France." The constitutional reform of 1884 changed the method of selecting senators in two respects: thereafter, the entire corps of senators was elected for nine-year terms by the local electoral colleges, one-third every three years, and the composition of these local bodies was altered so as to allow for some increase in representation to the larger *communes*. According to the new plan, which is still in effect, the number of municipal delegates varies from one for *communes* with a population of not over 500, to twenty-four for *communes* with 60,000 inhabitants and upwards. As an exception, the city of Paris is entitled to thirty delegates for what is now a population of over 3,000,000.

This scheme of indirect election gives a disproportionate voice to *communes* of average size, i.e., of 5,000 to 10,000 population. The great metropolitan centers are grossly under-represented. In the Department of the Seine, for example, Paris has only 147 senatorial electors out of 1079, while the suburban areas, with only half as great a population, have the remainder and therefore control the choice of senators; simi-

lary, Marseilles, a city of 900,000, has twenty-four delegates, as against 313 for the rest of the Department of the Bouches du Rhone, with a population of only 250,000. Excluding Paris, eleven cities of over 100,000 each and an aggregate population of over 2,500,000 are entitled to 264 delegates. In contrast, 370 rural *communes* containing less than 100 people each are entitled to one delegate each. In addition to these anomalies the allocation of the 314 senatorial seats among the ninety *départements* has been somewhat arbitrary, the less populous districts being in many cases over-represented.

The average size of senatorial electoral colleges is in the neighborhood of 800 individuals, around ninety per cent of whom are delegates chosen by the *communes*. While the Senate may therefore still be characterized as a "council of communes," it has tended since 1884 to reflect the point of view of the provincial bourgeoisie—"stoutly republican, strongly anti-clerical, and generally hostile or at least indifferent to social reform." The Senate's membership is recruited very largely from ex-deputies. National party controversies, however, play comparatively little part in senatorial elections, since the members of the electoral colleges are for the most part local politicians who have been elected on local issues. In many *départements* the same electoral college may simultaneously choose men both from the Right and from the Left. Accordingly, in the Department of the Seine, Premier Laval, a conservative, was elected senator in 1935 along with seven Socialists and Radical-Socialists. It is noteworthy, however, that not until 1935 was it possible for a Communist to enter the halls of the Palais du Luxembourg. The fact that there may be as many as three ballots (unless an absolute majority is secured on the first or second), facilitates compromise "deals" among supporters of rival candidates. This loads the dice against candidates of extremist political views, whether of the Right or the Left. It also invites "official" pressure in those *départements* where an election happens to have "strategic" importance.

Senatorial elections are held in October. The electoral colleges meet in the "county" seats (*chefs lieux des départements*). The ninety *départements* are divided alphabetically into three "series" so as to provide for the election of approximately one-third of the senators every three years. This

partial renewal of the Senate does not ordinarily afford much of an index to shifts in national political opinion.

During the past fifty years the method of choosing senators has been the object of attack from many quarters. There have been proposals for direct election by popular vote, notably in 1906, 1920, and 1924. Advocates of "democratizing" the Senate have invoked the analogy of the Seventeenth Amendment in the United States by which direct popular vote was substituted for election by state legislatures. A less drastic change, suggested in 1912, would be to permit all the members of the 38,000 municipal councils to vote for senators, with a view to enlarging the base of the electoral group. Advocates of functional representation, among whom the late Léon Duguit, eminent Dean of the Law Faculty of Bordeaux, was the most distinguished spokesman, have urged that the Senate be reconstructed so as to represent economic interest groups and thus act as a counterpoise to the territorially chosen Chamber of Deputies. Because all of these proposals raise the more fundamental issue of whether the Senate should be retained in any form, no agreement on how it should be reconstructed has been possible. The Socialist and Communist parties have consistently stood for the complete abolition of the Senate on the ground that it acts increasingly as an obstructive "fifth wheel" in the legislative "carriage" of the Republic. We shall see later that there is considerable justification for this indictment.<sup>19</sup>

#### *6. Parliament as a Leadership Reservoir.*

The personnel of the Chamber and Senate constitute, so to speak, the political reservoir from which governmental leadership is drawn. Hence it is pertinent to ask: What sorts of men are these 900 politicians who make up this reservoir of leadership; that is to say, the French governing class?

By and large, it is a fairly representative cross-section of French society. Occupationally, its members tend to be widely distributed. Before the advent of the Third Republic, the upper bourgeoisie formed the principal source of recruitment for parliamentary personnel. To-day, with educational opportunity fairly well democratized, a majority of the deputies,

<sup>19</sup> Cf. pp. 126-129 *infra*.

as well as a substantial minority of the senators, are of lower middle-class origin.<sup>20</sup> With the aid of State scholarships, sons of shopkeepers, elementary school teachers, even of peasants and industrial workers, can acquire the literary veneer which is peculiarly important for a political career among Frenchmen. Partly because of the national deference to "intellectualism," partly, also, because of their strategic position in the social hierarchy, the liberal professions still form the chief training ground for Parliament. Lawyers account for two-fifths to a half of the Chamber. Journalism usually supplies the next largest group. Together with smaller quotas of educators and physicians, they make up a substantial majority. In the remaining minority, occupational groups rank more or less in the following order: industrialists, agriculturalists, merchants and salesmen, engineers, wage-earners, and former public officials. It is significant that even the Socialist party, as its political star has risen, has preferred to pick its representatives mainly from the professional classes. It was not until the marked success achieved by the Communists in the 1936 elections that a sizable working-class bloc entered the Palais Bourbon (where the Chamber meets). The professional horizon of the Senate is somewhat narrower—law, medicine and education predominating among the "elder statesmen."

In the French national legislature men of great wealth are comparatively rare. Moreover, a law passed in 1928 makes officers and directors of such enterprises as railways, which are subsidized by the State, ineligible for parliamentary membership, and further requires that any deputy or senator who accepts appointment on the directorate of a financial concern during his term of office must resign and go before his constituents for re-election. While the French Parliament has upon occasion been painted with the brush of scandal and corruption, its standards of honesty are undoubtedly as high as those which prevail in the Congress at Washington—perhaps higher. The seeking and granting of favors is common among French politicians, but the stakes are for the most part petty in scope and non-pecuniary in character.

<sup>20</sup> Improvement in the level of parliamentary salaries has had something to do with this shift. The annual scale of pay has been progressively raised from 9000 francs in 1906 to 60,000 since 1928—a figure, however, which is still modest in comparison with the \$10,000 a year received by American congressmen.

As was indicated earlier, "the members of both the Chamber and the Senate are in great majority recruited from the local councils in the departments which they represent. Nor do they surrender one mandate on receiving another. A Parliamentarian who holds no office in local government is an exception among his followers. So many departmental councils have a large proportion of Senators and Deputies among their members that meetings of these bodies can only be held during the Parliamentary recess."<sup>21</sup> Two-thirds of these local councils are presided over by Parliamentarians. Among the 615 deputies elected in 1932, to take a typical situation, there were over 200 mayors and nearly as many municipal and departmental councilmen. Less than thirty per cent of the deputies had never served on local governmental authorities. For thirty-five years M. Herriot has been simultaneously mayor of the city of Lyons and representative of his constituency in Paris. During that period he was several times a minister and on three occasions prime minister, in addition to acting as president of the Radical Socialist party for much of the time. Similarly, M. Poincaré was for many years the presiding officer of the General Council of his Department of the Meuse, while holding national legislative and executive office.

This interpenetration of local and national political life presents both advantages and drawbacks. It means that the national representative system rests upon a solid local foundation. "The average French deputy goes to his constituency every Friday night and only returns to Paris on Tuesday or Wednesday."<sup>22</sup> By keeping in close touch with the pulse of local public opinion and constantly reporting back to his constituents, he partially allays the political suspicions which the capital and the provinces mutually entertain for each other. Previous and concurrent experience in local government also provides a valuable background for the more arduous tasks of parliamentary life. At the same time, the fact that most senators and deputies think of themselves as "delegates" of a given locality facilitates log-rolling and vote-trading in Parliament and works against a broadly national approach to national problems, although the French Parliament

<sup>21</sup> Middleton, *op. cit.*, p. 60.

<sup>22</sup> Siegfried, *op. cit.*, p. 105.

is certainly no more addicted to this regrettable tendency than are American legislative bodies. The custom of requiring an apprenticeship in local politics does, however, keep out of the Chamber some high-grade men who either have no local political connections or do not relish going through the local political mill.

The turnover in Chamber membership every four years ranges from about a fourth to a half of the total. For the last three elections the proportion of deputies elected for the first time was as follows:

<i>Year</i>	<i>Percent</i>
1928	43
1932	28
1936	45

Over a third of the deputies serve through three terms—twelve years in all—and a considerable number have four to six terms behind them by the time they either voluntarily retire or are compulsorily “retired” by the voters. There is thus a solid bloc of members that provide a real continuity in the parliamentary process.

Since the constitutional age requirement for election to the Chamber is only twenty-five years, it is possible for men to start their parliamentary careers early. The average age of deputies, however, exceeds fifty. Comparatively few men reach important cabinet posts before they are fifty-five or sixty—a fact which has given rise to the widespread notion that France is governed by “old men.” This tended to be particularly true of the ministries in power during the decade or so following the World War, partly, of course, because the War’s toll had claimed so many Frenchmen of early middle age. By 1936, however, the new post-War generation had begun to appear in the parliamentary arena in large numbers. The sweeping victory of the Popular Front produced a Chamber one-half of whose members were under forty-five and a third of whom were less than thirty-five years of age.<sup>23</sup> The rise of youth to power was also significantly reflected in the

<sup>23</sup> Not only because all senators must be at least forty years old, but also because they are chosen chiefly from the ranks of deputies and ex-ministers, the age level of the second house of Parliament is always much higher. Bald heads and white beards are in truth the distinguishing features of the senatorial corps!

composition of the Blum ministry, in which the average age at appointment was barely fifty, four of the ministers being under forty and only three over sixty.

By and large, the French pattern of popular representation precipitates a substantial residue of capacity into the national political crucible. Among the hundreds of admittedly mediocre representatives, a nucleus of able deputies and senators is available for the direction of the governmental process. Starting with a natural skill in oratory and debate, this élite acquires, by long service and diligent effort, a considerable proficiency in the art of law-making and, still more, an uncanny flair for "spotting" the weaknesses in the armor of the executive branch of the government. Even if Parliament itself does not directly govern, it revels in making and unmaking governments. Whatever its other shortcomings, it stands as a staunch bulwark against those forces which seek to undermine the French heritage of political liberty.

## CHAPTER IV

### THE POLICY-MAKING PROCESS: LEADERSHIP AND PLANNING

According to the letter of the French Constitution, the power to legislate resides jointly in the Chamber of Deputies and the Senate.<sup>1</sup> Except for the right to introduce money bills, which is denied to the Senate, each house of Parliament rests on a plane of constitutional equality in the law-making process.<sup>2</sup> The real key to how this process actually works, however, is not to be found in either of these constitutional provisions. In the modern state no representative legislature can effectively function without direction. Under a parliamentary system this direction is provided by the political executive, or cabinet, which is selected from and is responsible to Parliament for its political acts. Adapting to a republican setting the historic British cabinet system, as they understood it, the French constitution-makers of 1875 provided for such an executive in terms of a politically "neutral" President and a politically "responsible" Council of Ministers. Upon the President was conferred the power to initiate legislation, but neither this nor any other of his powers may be exercised without the "counter-signature of a minister."<sup>3</sup> This simple requirement, in conjunction with the further provision that "the ministers shall be collectively responsible to the chambers for the general policy of the government and individually for their personal acts," affords the constitutional basis for responsible cabinet government in France.<sup>4</sup>

Again, in the formal constitutional sense, the President, as titular chief executive, may designate who shall be ministers.<sup>5</sup> In reality, his discretion is narrowed down to the choice of

<sup>1</sup> Art. 1, Law of 25 February 1875.

<sup>2</sup> Art. 8, Law of 24 February 1875.

<sup>3</sup> Art. 3, Law of 24 1875.

<sup>4</sup> Art. 6, Law of 25 February 1875.

<sup>5</sup> Art. 3, Law of 25 February 1875: "He shall appoint to all civil and military positions."



who shall head the ministry. What is more, the President is without power, constitutional or otherwise, to dismiss any minister once appointed. Curiously enough, the Constitution itself makes no reference to the position of prime minister. This high office, whose official title is the Presidency of the Council of Ministers, has evolved from practical necessity. No collegial body can effectively act without a chairman. As parliamentary custom has developed, the President is obliged to choose as head of the ministry that parliamentary leader who at a given time is able and willing to form a "team" of ministers which promises to have behind it the support of a majority in the Chamber of Deputies, and, presumably, in the Senate also, although the latter house occupies a relatively subordinate position in controlling the executive. The Council of Ministers, therefore, is in substance a "steering committee" of party leaders selected from the parliamentary "reservoir" by the prime minister-designate.<sup>6</sup>

### 1. *The Composition of the Cabinet.*

Promotion to the ministry is the goal of every ambitious parliamentarian. In order to secure such recognition he must ordinarily have performed conspicuous service in at least one of two capacities—as a member of his own party group or on some important parliamentary committee. Each party group organizes at the opening of the parliamentary term, one of its members being selected "president." The latter is always in a favored position when a new ministerial "slate" is under consideration. The more strategically his group is located in the party line-up of the Chamber, the stronger is the bargaining power that he, as leader, and his chief lieutenants, have with the man invited to form a new government. This is why

<sup>6</sup> So far as the text of the Constitution goes, ministers may be selected from outside the ranks of Parliament. In the earlier years of the Third Republic there were frequent instances of non-parliamentary ministers. This practice, however, has steadily declined within the past generation. Occasionally, a high army or naval officer may be chosen to head the war or navy ministry respectively. Moreover, in the grave national crisis caused by the riots of February 1934, President Le Brun called to the premiership of the "National" Government ex-President Doumeigle, then in political retirement. Again, in 1936, Premier Blum included three non-parliamentarians in his Popular Front Ministry, while M. Jouhaux, the General-Secretary of the C. G. T., was offered a portfolio but refused it. Such cases as these are really exceptions which go to "prove the rule" to which we here refer.

pivotal center groups are so often over-represented in the make-up of the governing coalition. Together, the group presidents act as a "conference of presidents" which meets with the President of the Chamber every Thursday during the session to prepare the weekly agenda. This function affords further opportunity for clever politicians to maneuver for their own advantage.

It is the organized party groups, moreover, that select, at the beginning of each session, their representatives on the Chamber's nineteen standing committees, the basis of this representation being proportional. Since no member may belong to more than two committees, and in the case of the powerful finance and foreign affairs committees, only one, there is inevitably the keenest competition for important committee assignments. For such preferment the qualities of intelligence and diplomacy are "trump" cards, even though personal relations with important political personages and backstairs intrigue play no small part in the process. Once on a committee, an able man may soon work up to be its chairman, inasmuch as each committee elects its own presiding officer instead of following the seniority rule (as at Washington). A still more significant cog in this committee machinery is the *rapporteur*, also chosen by and from each committee. It is the "reporter" who prepares and presents the committee's report to the Chamber. Not infrequently, his masterful eloquence at the tribune, while analyzing some government measure which his committee has considered, will mark him as "a minister for tomorrow."

There are other factors not so closely related to ability that sometimes smooth the way to ministerial promotion. Being on good terms with important parliamentary correspondents who make up official cabinet "slates" in the lobbies;<sup>7</sup> having

<sup>7</sup> The following excerpt from a German publicist's sympathetic critique of French life graphically suggests the rôle of the Paris press corps in cabinet-making: "Everything that comes from the lobby of the Chamber is true. If a man writes that such and such a thing is 'whispered in the lobby,' it is no proof that he has heard it here, but only that he might have heard it. For this purpose it need not even be genuine, for the simple reason that one might hear anything in the world there. Crowded together in a small room, hundreds of deputies and journalists spend their days in a close symbiosis whispering stories to each other. . . . One fine day the bacillus 'Tardieu' is introduced into the air of the Palais Bourbon. Deputies and journalists who have walked in a moment ago with

influence with the President of the Republic, or members of the French Academy; entertaining one's colleagues to delectable dinners in exclusive Parisian restaurants—any of these situations may perchance turn an ordinary deputy (or senator) into *Monsieur le Ministre*—for the time being at least. Such considerations, however, seldom work twice for the same man.

In each Chamber is a substantial quota of members who constitute what is very expressively termed the "shadow ministry." This group embraces ex-ministers on the one hand and existing committee chairmen and *rapporteurs* on the other. The rapid rotation of cabinets swells the number of these "*ministrables*," as they are designated in the French language. Over a period of sixty years (1876-1937), the French Republic has enjoyed the "luxury" of ninety-four successive cabinets, in which nearly 400 different men have sat as ministers and under-secretaries. The number of former ministers in a given Parliament will frequently reach forty or fifty—more of them, to be sure, belonging to the Senate than to the Chamber.

The professional elements from which cabinet material comes, concludes Heinberg, "are narrowing to lawyers, professors, journalists, and publicists. Engineers, physicians, and army and navy officers are being replaced. The political class within the professional class is also narrowing in the direction of those who are grounded in previous experience in local politics or administration, and chiefly in administration. Ministers also tend, more and more, to be selected from the Chamber of Deputies."<sup>8</sup> In proportion as the democratic movement has advanced and political socialism become an important

unclouded eyes, completely unsuspecting, suddenly put on long faces and start speaking with tongues, expressing their conviction that Monsieur Tardieu is the next Prime Minister. Nothing could be simpler, for the gentleman in question has every qualification for the office, but how did the whole world suddenly come round to this view? Monsieur Tardieu has not said a word himself. But he has no doubt very quietly opened the Pandora's box which is part of every efficient politician's equipment in France, and the word 'Tardieu,' multiplied a million times, has flown out of it on invisible wings, darkening the air of the chamber—we thought it was a sudden June storm—and made its way into every individual consciousness, whence, converted into public opinion, it sets out once more on its travels." F. Sieburg, *Who Are These French?* (New York, 1931), p. 179. By permission of The Macmillan Co., publishers.

<sup>8</sup> "The Personnel of French Cabinets, 1871-1930," *Amer. Pol. Sci. Rev.*, May, 1931.

force, representatives directly chosen by popular suffrage have acquired preferred claims to cabinet positions. Since, under the French Constitution, any minister may speak in either house, there is no necessity of balancing up the composition of the cabinet as between Chamber and Senate.<sup>9</sup> At the same time, political expediency requires the inclusion of a few senators in every ministry. Despite its advanced leftist complexion, the Blum Popular Front Ministry of 1936 contained four senators—as against twenty-seven deputies and four non-parliamentarians. In times of national crisis, there is a tendency to turn to the Senate for men to head the ministry, e.g., Clemenceau, Poincaré, and Laval.

## 2. *The Head of the Government*

By all odds the most important and delicate political function which the President of the Republic has to perform is the selection of the prime minister. Unlike the clear-cut and stable party situation with which the British King is usually presented, French coalitionism is so volatile that the life of every cabinet is at best uncertain. During the Third Republic cabinet tenure has averaged only a little more than eight months. The turbulent conditions of post-War years have accentuated cabinet instability. Forty different ministries held office from January 1920 to March 1938, their average life being only slightly over five months. During his term of seven years the French President has many cabinet “crises” to resolve. From 1924 to 1931 M. Doumergue was obliged to issue as many as twenty-one invitations to parliamentary leaders to undertake the task—often a thankless one<sup>1</sup>—of forming a government. In five instances the invitation either was refused or failed to produce results; but sixteen successive ministries actually held office during the seven years.

Not only is cabinet-making a rapidly recurring task, but the determination of who shall head the ministry is, in perhaps one case out of every two, by no means clear. When a national election gives a working majority to a political coalition in which one party represents obviously the dominant force,

<sup>9</sup> Art. 6, Law of 16 July 1875. In the British Parliament the rule that Commons may not speak in the House of Lords, nor Peers in the Commons, often leads to difficulties in filling up a ministry.

there is no difficulty. Thus, following the victory of the *Cartel des Gauches* in 1924 and 1932, it was a foregone conclusion that M. Herriot, as head of the Radical Socialist party, would be asked to take over the reigns of government. The elections of 1936 gave a correspondingly definite electoral mandate to the Popular Front coalition and M. Blum, veteran leader of the Socialist party, was at once invited to form a new cabinet. It is in between national elections that the problem becomes complex. A single example will suffice to demonstrate this complexity: "The Briand Government of 1929 was overturned by a majority drawn from two extremes of the Chamber. The victors thus fortuitously assembled were clearly incapable of forming a coalition for the purposes of government. In dealing with this crisis the President began by applying a rule which, in other circumstances, is often effective; he called upon M. Daladier, the Radical Leader, as the head of the strongest group among the opponents of the late Government. That attempt failed. He then turned to M. Clementel, a Radical Senator. That plan was equally unsuccessful. Finally, the President gave M. Tardieu a commission to act as broker, with a wide liberty of action. After bewildering manoeuvres a Government was at last constituted. In the course of these protracted negotiations at least four different combinations of groups were attempted, ranging from a Radical-Socialist coalition on the Left to the Centre-Right coalition which was the ultimate outcome of the crisis."<sup>10</sup>

Such crises may last for several days, during which feverish negotiations will often continue all night.<sup>11</sup> Frequently, as in January 1936 when Laval resigned, the outgoing premier will be asked to construct a new cabinet merely by shifting a little the axis of its support. In this particular instance, Laval refused; but Briand succeeded himself in such fashion on several occasions, as did Chautemps in January 1938. The President,

<sup>10</sup> Middleton, *op. cit.*, p. 185.

<sup>11</sup> "A bad habit has developed during recent years. This is to try to complete the construction of a new cabinet during the night. Some people fancy they see something symbolical in the practice. It is necessary that the ministerial list be ready about three o'clock in the morning. At that time the President of the Republic is awakened and there is great satisfaction if one arrives in time for the ministry to be announced in the *Journal Officiel* [the official government gazette which appears each morning]." J. Barthélemy, *La Valeur de la Liberté* (Paris, 1935), p. 156. (Translation mine).

to be sure, is guided in the initiative he takes by the circumstances under which the outgoing ministry has resigned. His business is to act as conciliator of rival party and personal claims. For this purpose he always consults the presiding officers of the Senate and Chamber. Yet he cannot with impunity impose his own will. When the strong-willed reactionary President, M. Millerand, attempted to keep M. Herriot, the leader of the Left Bloc, from becoming prime minister after the 1924 elections, the Chamber of Deputies promptly staged "a strike" against M. François-Marsal, the presidential choice, by giving the latter a vote of no confidence. There was no recourse for M. Millerand but to yield to the will of the new Chamber majority or resign. Millerand had got himself so far out on this "unconstitutional limb" that he was forced to choose the latter course. His predecessor, M. Doumergue, scrupulously refrained from interfering with the operation of the constitutional rule that every ministry must be acceptable to Parliament. The application of this rule may now and then cause the Chief of State considerable political embarrassment. This was conspicuously the case when M. Poincaré, as President, was obliged to select M. Clemenceau, his bitter political enemy, to head the war-time government of 1917. This is not to suggest, however, that the President's influence counts for nothing in determining the succession and complexion of ministries. It is known that during the monetary crisis of 1926 Doumergue intimated to Herriot that the latter should leave the premiership, and two years later persuaded Premier Poincaré to remain in office a while longer. But the procedure the President employs must be in the nature rather of subtle persuasion than of direct dictation.

The exigencies of French parliamentary politics have produced divergent types of prime ministers. One type is represented by men who actually lead their "majorities" in the sense of being the clearly recognized head of the strongest element in a majority coalition. Both Herriot and Blum belong in this category. Another type of premier, illustrated notably by Briand and to a lesser degree by Laval, is supported by no substantial party following, but establishes his leadership by skilful conciliation, aided by personal prestige. This explains why Briand was able to hold the office of prime minister eleven different times—a record among statesmen of

the Third Republic. Like Briand, Poincaré had no important party behind him; unlike Briand, however, he enjoyed his greatest successes as premier (1922-24 and 1926-29) by imposing an authoritative leadership before which Parliament and the country were willing to bow during a national emergency. Such was also the situation which enabled the iron-handed Clemenceau to govern as "constitutional" dictator during the last years of the World War and the peace conference period. It is possible for such men as these to carry through a personal policy which may be virtually independent of party programs. The third category of premiers, by far the most numerous, consists of politicians of secondary stature and importance. For the most part they head "stop-gap" ministries, and are often overshadowed by some other member of their cabinet. Among recent examples of this category may be mentioned Paul-Boncour, Flandin, Chautemps, and Albert Sarraut. During the turbulent two years following the resignation of Herriot in December 1932, five cabinets headed by men of this stripe succeeded one another, each seemingly less capable than its predecessor to cope with the unrest produced by the Stavisky scandals and economic depression.

The majority of French premiers of conservative or moderate political views have belonged to the legal profession. Raymond Poincaré was one of the most brilliant trial lawyers of his day. Aristide Briand, a moderate in politics, began his long political career as a practicing attorney. The conservative Pierre Laval rose from obscurity and made a fortune handling the legal business of large business corporations. Millerand, who evolved from a socialist into a hard-bitten conservative, was also a lawyer. By way of contrast, the most prominent of the liberal and radical premiers have been drawn from educational and literary pursuits. Herriot was for many years a professor of literature in the *lycée* of his home city of Lyons, and is also the author of several books on literature and public affairs. Daladier was a teacher of history; Painlevé, a distinguished mathematician. Prior to active participation in politics, Léon Blum, an effete intellectual of wealthy parentage, divided his time between service on the staff of the Council of State, the supreme administrative court of France, and producing literary and musical criticism. Shortly after the World War, Blum became one of the editors of Jean Jaures's *l'Hu-*

*manité* and later founded his own socialist paper, *Le Populaire*, which he has continued to edit ever since.<sup>12</sup> The fiery Paul-Boncour combined with distinction law, scholarship, and politics, while for both Clemenceau, "The Tiger," and his protégé, Tardieu, personal journalism provided a convenient springboard into the political arena. Business magnates, like Loucheur, the engineer-industrialist, and François-Marsal, the banker, occasionally reach cabinet rank, but never its headship. For the latter, professional eminence and literary erudition seem to be the "open sesame."

### 3. *The Chief of State.*

The French make a significant titular distinction between the President of the Council of Ministers and the President of the Republic. The former is called the *chef du gouvernement*; the latter, the *chef de l'Etat*. The one is political head of the government of the day; the other personifies the continuous authority of the State. When hereditary monarchy was finally ruled out in 1875, provision had to be made for an "elected constitutional king." So, as one French publicist has picturesquely put it, "there is in the Elysée a monsieur whom we have placed there without really knowing why, unless, thanks to our monarchical traditions, we would believe ourselves lost if the State was not symbolized by someone."<sup>13</sup> In sarcastic vein, Georges Clemenceau once observed: "There are two things in the world for which I have never seen any use: the prostate gland and the President of the Republic."<sup>14</sup> Nevertheless, all good French republicans have looked with suspicion even upon an elective presidency. They remember too well how cleverly Louis Napoleon manipulated the office to gratify his imperial ambitions. With a view, therefore, to emphasizing the supremacy of Parliament, it was decided that the President should be chosen, not directly by the people, but by their representatives. What the republicans desired in the President was a pliable figurehead who could be counted on to keep strictly within his constitutional prerogatives.

<sup>12</sup> Said Edouard Herriot of Blum: "He knows the French tongue better than many Academicians." *L'Oeuvre*, 24 May 1936.

<sup>13</sup> Henri Malet, *Le Parlement* (Paris, 1920), p. 18. (Translation mine).

<sup>14</sup> Little did he suspect when he uttered these words that he would himself be an unsuccessful candidate for the office years later!



In view of this attitude, it is hardly surprising that most of the twelve men who have held the office have been drawn from the ranks of modest parliamentarians who had previously played minor rôles in the stress and strain of party politics. Five presidents were presiding over the Senate when elected; three were presidents of the Chamber of Deputies. Only two, Poincaré and Millerand, were premiers at the time they were elevated to the Elysée, although several had held secondary ministerial posts earlier in their careers. Except for Poincaré, no political leader who has left an important imprint upon the history of the Third Republic has yet gained the highest titular prize it has to offer. Gambetta was passed over for Grevy in 1879, Jules Ferry for Carnot in 1887, Waldeck-Rousseau for Faure in 1895, Clemenceau for Deschanel in 1920, and Briand for Doumer in 1931.

The procedure by which the President is chosen is simple and brief. At least fifteen days before the expiration of the incumbent's term of office, or immediately, in the event of his death or resignation,<sup>15</sup> the two houses of Parliament assemble in joint session at Versailles as the National Assembly, which is presided over by the President of the Senate. The only thing comparable to a preparatory campaign has been the holding, in a few instances, of a preliminary meeting at which candidates are unofficially nominated. This practice was discontinued in 1924 when the Left Bloc alone met, took a "straw vote," and concentrated upon Painlevé as its candidate. A good deal of informal maneuvering in the lobbies, however, always precedes the convening of the National Assembly, and the contest usually takes on the appearance of Left *versus* Right. On the floor of the Assembly there are neither nominating speeches nor general debate. The vote is by secret ballot and an absolute majority is required for election. If no candidate secures a majority on the first ballot, further balloting must be resorted to. So far, no more than two ballots have ever been necessary, eight elections having taken place on the first ballot. The use of secrecy in the voting, although not specified by the text of the Constitution, is defended on the ground that it is a more dignified procedure and at the same

<sup>15</sup> Five French presidents—Grevy, Casimir-Périer, Faure, Deschanel, and Millerand—have resigned; two—Carnot and Doumer—were assassinated.

time emphasizes the "non-partisan" character of the presidential office, candidates thereby being chosen "on their merits." In spite of this contention, party leaders of the Left have recently carried on considerable agitation for the adoption of an open roll-call, so that the public may know how its representatives actually vote.<sup>16</sup>

There is nothing in the Constitution to prevent a president from being elected a second time. Only one occupant of the office, however—Jules Grevy—has served longer than a single seven-year term. The majority have, in fact, stayed in office less than seven years. A tradition against reëlection has by now developed to such a point that it has become customary for presidents to declare publicly, in thanking Parliament for their election, that they will not stand for another term of office.

Retirement of a president from office, however, does not necessarily mean his withdrawal from active politics. It is not regarded as improper for an ex-president to return to the political front. After he left the Elysée in 1920, Poincaré served his country twice as premier and had much to do with moulding the course of French foreign and domestic policy during the first post-War decade. Under dramatic circumstances, "Papa" Doumergue (as he used to be affectionately dubbed in popular language) was recalled from retirement to head the "National Cabinet" which was formed to restore order after the crisis of February 1934. Deschanel and Millerand both became senators following their resignations from the presidency.

A celebrated political epigram of long standing has it that the French president "neither reigns nor governs"—in contrast with the English king, who serves an important ceremonial and symbolic function, and the American president, who possesses a real governing power. Like most epigrams, this one does not quite conform to fact. While it is true that the setting of an elected *republican* executive lacks the colorful pomp and brilliance of a royal court, the French State has been relatively generous in furnishing the chief of State with

<sup>16</sup> J. Barthélemy and P. Duez, *Traité de Droit constitutionnel* (Revised ed., Paris 1933), p. 608, claim that if the voting had not been secret Painlevé might have been elected over Doumergue in 1924, and perhaps Briand over Doumer in 1931.

an official residence whose appointments are elegant in their stately simplicity. His annual salary of 1,800,000 francs (about \$70,000) is almost as large as that of the American president, and to it is added an equal sum for household expenses, entertainment, and travel.<sup>17</sup> The chateaux of Fontainebleau and Rambouillet, near Paris, are at his disposal as "country residences," where he may rest and "hunt rabbits!" The President is ex-officio head of the Legion of Honor, appointments to which are made in his name. Even though he may not "reign" in an elaborate ritualistic sense, the President performs a variety of ceremonial duties comparable in character, if not in frequency, to those performed by the British royal family. He lays cornerstones, dedicates new public buildings and monuments (especially war memorials), opens expositions, and presides at all important military reviews. Much of his time is spent "on circuit" throughout the country making speeches at banquets and celebrations, thereby freeing the Prime Minister from a good deal of the harassing pressure for public appearances to which the President of the United States is constantly subjected. It does not follow, however, that the person of the French President enjoys any such popular deference or freedom from criticism as is the case with a royal monarch. Upon occasion the press does not hesitate to denounce in scathing terms his public utterances, even though he may be held constitutionally responsible only for high treason before the high court of the Senate.<sup>18</sup>

If he does not "govern," the President may nevertheless indirectly influence the formulation of policy by whatever moral authority he possesses with his ministers and public opinion. There are a "thousand degrees" of this influence, depending upon the caliber of the man who occupies the office. It is the President who, at the instance of the Prime Minister,

<sup>17</sup> Although ex-presidents do not receive *ipso facto* a retirement pension, a law passed in 1932 authorizes Parliament, upon declaring that a former president has "merited well of his country," to accord him a life pension of 200,000 francs.

<sup>18</sup> When President Deschanel, ill at the time (1920), was reported to have fallen off a railway train in his pajamas, an amusing popular song was composed on the theme of "*le chef de l'État en pyjamas*." This same incident also gave rise to an apocryphal story of how the President, attired in his pajamas, knocked at the door of a farmhouse and asked for food. The good peasant woman doubted his identity until she looked at his feet. Upon seeing that they were clean, she was convinced that it was the President of the Republic!

convenes meetings of the ministerial council at the Elysée and apparently presides over them.<sup>19</sup> While he has no vote, he may take part in the discussions. President Millerand once went so far as to call a cabinet meeting while Prime Minister Briand was away at a diplomatic Conference at Cannes (though Millerand later claimed that Briand had authorized the meeting by telegram). At this famous sitting of the cabinet a line of policy was voted which clearly implied rejection of Briand's negotiations with Lloyd George at Cannes. Upon his return, Briand dramatically resigned because he could not accept the new policy.

Appeals for patriotic unity and support of government policy are frequently voiced by the President, though, of course, only with the approval of the Cabinet. An interesting recent example of this was President Le Brun's radio appeal in March 1937 for popular subscription to the national defense and restoration loan which Finance Minister Auriol was then launching. In this broadcast the President asked for a cessation of political strife during the following summer, when the International Exposition was to open in Paris.

It is in the domain of foreign affairs that the President is in a position to make his opinions count for most.<sup>20</sup> He has a knowledge of current international negotiations which is often fuller than that of any minister except the premier or foreign minister. He signs all treaties, including those negotiated in secret. President Carnot actively supported the consummation of the secret Franco-Russian alliance in the 1890's—a policy which his predecessor, Grevy, had opposed. Acting almost as if he were his own foreign minister, Poincaré recalled the "pacifistic" ambassador Georges Louis from St. Petersburg in 1913 and replaced him with the militaristic Delcassé; concluded, with Premier Briand, a secret agreement with Russia in February 1917, apparently without the cabinet's knowledge; and vigorously voiced his opposition to the Armistice of 1918. On the latter issue, however, he had to give way when Premier Clemenceau threatened to resign.

<sup>19</sup> Such meetings are officially known as *conseils des ministres*, in contradistinction from the *conseils de cabinet*, which are called by the head of the cabinet and which the President does not attend. The latter sessions are ordinarily held in the office of the Prime Minister.

<sup>20</sup> Cf. L. Rogers, "The French President and Foreign Affairs," *Political Science Quarterly*, December, 1925.

Yet even Poincaré, the strongest of all the occupants of the Elysée, did not try to overrule his ministers, once decisions were made. As he conceived the President's function, it was to argue alternatives and convey warnings, but at the same time to adhere scrupulously to the constitutional limitations of the office. When Millerand in 1923-24 attempted to convert the presidency into a positive political force by urging a constitutional amendment to this effect, the outcome, as we have seen, was his forced exit from office. No other post-War president has departed from an obviously "passive" constitutional rôle.

If one may safely generalize, it would be to the effect that the political position of the French president has tended to decline ever since MacMahon's abortive *coup d'état* in 1877. On the famous *Seize Mai* of that year, MacMahon sent a letter of reprimand to Premier Jules Simon, who reluctantly resigned. The President then appointed one of his henchmen, the Duc de Broglie, as head of the government, and asked the Senate's consent to dissolve the Chamber, which proceeded promptly to vote a resolution of no confidence in the ministry. The Senate, however, authorized the dissolution and a national election followed. When the new Chamber proved to be hostile to the President's self-designated ministry, he was forced to yield and subsequently resigned. To MacMahon's action a reactionary connotation was henceforth given and dissolution came to be regarded as a "menace" to the security of the republican régime. In trenchant terms Tardieu has summarized the effect of *Seize Mai* upon the presidency: "Never since 1877 has a President proposed before the Senate the dissolution of the Chamber. Never has he exercised the right of veto with a view to a second deliberation. Never has he sent a message to the Chamber, save in cases of ceremonial welcomes. And so all the actualities of executive power are concentrated in an office which the constitution had not even foreseen—the presidency of the Council."<sup>21</sup> Except for the selection of the premier, the President today exercises no political prerogative on his own responsibility.

<sup>21</sup> *France in Danger*, p. 115. Tardieu here refers to legislative powers conferred upon the President by Art. 6 of the Law of 16 July 1875.

#### 4. *The Formulation of Ministerial Policy.*

The process by which French national policy is translated into law comprises three overlapping stages. The first may be called, for want of a better term, the "program-making" stage; the second, that of technical planning and preparation; and the third, that of parliamentary debate, enactment, and control.

By the program-making stage is meant the determination of the broad lines of legislative and fiscal policy which the political executive is prepared to advocate before Parliament and public opinion. Here the party leadership of the majority coalition, both inside and outside Parliament, joins with the cabinet in working out a "priority" scheme of legislative proposals. Reference has already been made to this program-making function in so far as French political parties are concerned. In their annual congresses, through their research activities, by decision of their executive committees and national councils, party organizations develop, refine, and revise party doctrine, as political circumstances warrant. Since the parliamentary representation of each important party interlocks with the top stratum of the national party hierarchy, close coöperation necessarily prevails between the two sets of leaders. At times, of course, a determined minority may long hold out against the decision of the majority, especially if the division is close. Internally, all the large parties have their "right" and "left" wings. From 1932 to 1936, for instance, there was recurrent battle between the Herriot and Daladier groups within the Radical-Socialist camp; and the moderate Socialists who follow Blum's leadership have, since the Popular Front victory, been subjected to constant intra-party attack from a revolutionary (Trotskyite) faction headed by Marceau Pivert. Nevertheless, short of a situation in which open disruption faces a party, it can and does stand officially for at least a tentative program of action. The more specific this program is, the better its chance of influencing cabinet decisions in a really important sense.

Given the cabinet's coalition character, it can ordinarily formulate a working program only after extended deliberations involving delicate and subtle compromise. The ministerial representation of no single party is in a position to im-

pose that party's viewpoint *in toto*. There must be "give and take" in the negotiations of the council chamber. "Negotiation," says Middleton, "may mean, and often does mean, the temporary abandonment by a party of some important project of its programme, or the acceptance of some little-loved measure on which a prospective ally insists. It may even involve questions of association with groups whose support, however useful in Parliament, is embarrassing to the party's interest in the country."<sup>22</sup> It required all of M. Blum's superb finesse to keep the Radical-Socialist and Communist elements of his parliamentary support from pulling his first Government apart during the latter half of its life (1936-37). The Government has to keep its weather eye cocked for the probable reaction of both Chamber and Senate to its program. For a limited period following a national election which has given an unmistakable mandate to an effective party coalition, as in 1936, this task is not so difficult, though even in this instance the question as to what labor bills should be pushed prior to other items included in the Popular Front electoral program had to be threshed out in cabinet council. But during the greater part of the four-year period between national elections there is no such clear-cut situation. Parliament becomes a kind of "closed arena" in which successive governing combinations have to be effected in terms of changing economic and social conditions, barrages from the press, and political cross-currents.

The process of determining ministerial policy is influenced by still other considerations. Pressures from interest groups play a rôle of capital importance all along the line. Indeed, party programs often but reflect the proposals of non-political organizations. As in all industrialized societies, there is in France a highly developed array of functional groups representing employer, labor, farm, professional, consumer, and patriotic interests.<sup>23</sup> On the employer side the most extensive national groups are the *Union des Intérêts économiques*, formed shortly after the war, and the *Confédération générale*

<sup>22</sup> *Op. cit.*, p. 105.

<sup>23</sup> Jean Cahen-Salvador's *La Représentation des Intérêts et les Services publics* (Paris, 1935) is an admirable analysis of the development. This author declares that as many as 15,000 new associations are formed in France every year.

*du Patronat*. The latter embraces over thirty national associations in the fields of industry and commerce. A more concentrated grouping of employers is the powerful *Comité des Forges*, which has long dominated the metallurgical industry (especially munitions), and controlled the influential Paris newspaper *Le Temps*. French agriculture is organized with equal thoroughness, the grape-growers constituting perhaps its most active phalanx. In Chapter I the set-up of organized labor, now unified in the powerful *Confédération générale du Travail*, was outlined. The "users" or "subscribers" of utility services (e.g., railways and telephone) have even formed nation-wide protective associations. At least two-thirds of the million employees of central and local governments belong to professional associations and labor syndicates which are federated into three big national organizations. Intellectual workers outside government and industry form another economic interest group. Holders of state pensions, both military and civil, have their protective associations. The depression, in France as everywhere, has brought into existence powerful taxpayers' leagues which have vociferously clamored for lower taxes. The heads of "large families" have even organized with a view to securing more liberal government bonuses.

It is interesting to note how the French State has given legal recognition to the quasi-public importance of one form of economic organization—the chamber of commerce. A law enacted forty years ago provides that by administrative decree issued upon the proposal of the Ministry of Commerce there shall be established in each *département* at least one association of business men "to look after the commercial and industrial interests of this jurisdiction."<sup>24</sup> This statute further specifies the number of members to which each chamber of commerce is entitled, how they shall be elected, and their powers. Among these powers is the *right* to advise the Government, whenever requested, on industrial and commercial matters, including changes in legislation, tariff schedules, and public utility rates. The local chambers are organized nationally into an Assembly of Presidents of Chambers of Commerce through which the attitude of French business men on pending legislative measures is communicated to the Govern-

<sup>24</sup> Law of 9 April 1898.



ment. Not infrequently this national organization, as well as the local chambers in the larger cities, submits draft proposals for consideration by the cabinet. The weight of this influence may almost always be counted against advanced labor legislation.

Space will permit the citation of only a few of the innumerable non-economic groups which influence the formulation of legislative policy. Exercising a constant vigilance for the protection of civil liberties is the celebrated *Ligue pour la Défense des Droits de l'Homme*, formed after the Dreyfus Affair forty years ago. Pressure for national legislation favorable to municipalities is funneled through the French Union of Cities and the National Association of Mayors. There are several national associations for the advancement of woman suffrage, along with countless peace and youth groups, some of them secular, others affiliated with religious bodies.

It goes without saying that the impact of functional groups upon the legislative and administrative mill varies greatly in effect, depending upon their economic or vote-controlling strength. Nevertheless, the decisions of every government have, in greater or lesser degree, to take pressure politics into account. Many of the interest groups maintain research staffs, carry on propaganda, publish bulletins, and engage in governmental "lobbying" not only in the corridors of Parliament, but in the offices of ministers as well. Scarcely a day passes during a parliamentary session that the press fails to report that a delegation from such-and-such an organization waited upon the Prime Minister (or the Minister of Commerce or Labor), and sought his support of this or that measure. No more striking illustration of how official policy-making may be affected by such activity can be cited than the relationship of the C. G. T. to the Blum Government during 1936-37. At random we read that "M. Blum conferred on Saturday with several members of his Cabinet on the internal situation in general, and in particular on the latest demands made by the C. G. T., the trade union federation. The labor situation is again becoming rather serious, for the C. G. T. has passed a resolution which almost amounts to an ultimatum to the Government."<sup>25</sup> In this instance the Government had to bal-

<sup>25</sup> *Manchester Guardian Weekly*, 30 April 1937 (as reported by its Paris correspondent.)

ance the exigencies of its critical financial situation against the political peril of rejecting such a plea from its most powerful body of supporters. Pressure from the big bankers, in particular those in control of the Bank of France, played a decisive part in forcing the Flandin and Laval governments of 1934-35 to adopt a drastic deflationary policy. Throughout the post-War period, organized State employee groups have carried on continuous agitation, first of all to secure the revaluation of their salaries in terms of the rising cost of living, and later to minimize the "depression" cuts made in the salary scale. The weakness of a coalition executive encourages this sort of pressure politics. Such is the climate in which the cabinet must initially prepare, subsequently revamp, and occasionally emasculate its legislative program—a program which, in many cases, may differ but slightly from its predecessor, whether issuing from the same or immediately preceding government.

Little is directly known of the internal procedure of cabinet meetings. No complete minutes are kept, no outsiders—not even representatives of the press—are admitted to the council room. Unless the political situation is critical, the only report of the proceedings ordinarily to reach the public is a brief communiqué limited to some such cryptic formula as this: "The Council of Ministers met this morning at the Elysée, under the presidency of M. Albert Le Brun, and considered current business." The majority of the ministers are opposed to allowing any permanent accessible record of their discussions to be kept for fear that it might be used by their successors to embarrass them politically.

Until 1917 the cabinet operated without a secretariat, and since then such staff facilities as have been set up can scarcely be called adequate. French authorities on constitutional law do not agree as to whether the President or the Prime Minister acts as chairman and puts votes during the meetings of the Council of Ministers. It is reasonable to suppose, however, that since the *conseil des ministres* is held at the President's official residence and upon his formal convocation, the Chief of State presides over its deliberations. When it meets as a *conseil de cabinet*, the Prime Minister, or a deputy acting in his absence, directs the proceedings. In the former case, greater decorum is apparently observed, and a certain hierarchical

order is followed in speaking, to wit, the Prime Minister, the Minister of Justice, the Minister of the Interior, the Minister of Foreign Affairs, and so on.<sup>26</sup> M. Poincaré has recorded that much of the cabinet's time tends to be wasted on trivialities, partly because, until very recently at any rate, no agenda for the meetings was prepared in advance, partly, also, because the cabinet as a body attends to a lot of administrative routine which might more expeditiously be handled by individual department heads or small cabinet committees.

Since the World War, the increase in the size of the cabinet has introduced a further factor which tends to complicate decision-making. This expansion is the consequence of the creation of new government departments and under-secretaryships, as well as of growing pressure from parliamentary leaders for representation on the executive. The former development we shall reserve for later consideration. Of the latter it is sufficient to refer once more to the multiplication of party groups in the Chamber of Deputies. When the War broke out in 1914, the Ministry in office contained only seventeen members. While the Ministry has varied considerably in size since that date, the general tendency has been upward, regardless of whether its political complexion is conservative or liberal. The second Tardieu ministry of 1930, for example, included eighteen ministers, fifteen under-secretaries, and one high commissioner. The Blum and Chautemps Popular Front ministries of 1936-37 broke all previous records with a total of thirty-five, of which twenty-one were ministers and fourteen under-secretaries. The latter are in reality assistant ministers. Although they lack the power to countersign executive decrees, they usually manage one of the divisions of their respective departments, may speak in Parliament, and are "covered" by the collective responsibility of the cabinet. Since 1906 it has become customary to admit them to cabinet meetings in a consultative capacity.

The last two decades have witnessed a further innovation which, while it enlarges the cabinet, has strengthened it as an instrument of political direction. This is the practice of creating ministers *without portfolio*. Viviani, in August 1914, was

<sup>26</sup> A cabinet minister is quoted as having remarked: "The Council of the Cabinet is where one smokes; the Council of Ministers, where one does not!" Barthélemy and Duez, *op. cit.*, p. 660.

the first man to take the premiership minus the burden of departmental management. His example was followed by none of his successors until 1934, when Doumergue agreed to return as Prime Minister only if he were freed of the necessity of directing a department. Three of his successors—Flandin (1934), Blum (1936), and Chautemps (1937-38)—have followed suit. For the task of coördinating and directing government policy, the advantages of this arrangement are so obvious that foreign observers have wondered why it was not resorted to long before. The reason is to be found partly in the old fear of conferring upon any one minister—even though he be the *first*—an executive status superior to that of his colleagues; partly, also, in the fact that, without an administrative department to manage, the Prime Minister has practically no patronage at his disposal. Nevertheless, the political burden of “leading” the government has become so formidable that prime ministers *sans portefeuille* are likely in the future to be rather the rule than otherwise.

During the last few years the practice of appointing *Ministers of State without portfolio* has been employed by several prime ministers. This is a device for adding to the political strength of the cabinet by bringing into its fold important party leaders who, for one reason or another, cannot be assigned to the direction of a department. In the Doumergue Government of 1934, Herriot, a liberal, and Tardieu, a conservative, both of whom had previously been premiers, were made ministers without portfolio in order to emphasize the “party truce” basis of the Government’s support. Léon Blum, two years later, gave similar appointments to Camille Chautemps (Radical-Socialist), and Paul Faure and Maurice Violette (Socialists). When his Cabinet was succeeded by the Chautemps Ministry in June 1937, Blum himself became “Vice-President” of the Council without portfolio, along with three Ministers of State. In passing, it should further be observed that the addition of these “non-administrative” ministers to the cabinet helps somewhat to lessen the burden resting upon their departmental colleagues when it comes to defending governmental policy before the Chambers.

### 5. *The Technical Preparation of Legislation.*

Only the general directives of government policy are hammered out by the deliberations of the political leaders who compose the ministry. The technical task of whipping the outlines of policy into concrete legislative proposals lies beyond not only the competence, but also the time at the disposal of the Prime Minister and his busy associates. For this indispensable and complicated phase of the legislative process, the politician, no matter how experienced or intelligent, is hardly more than an amateur. While this generalization is relevant to the leadership of all democratic governments, it is particularly pertinent to French ministers. Their tenure of ministerial office is ordinarily too fleeting to permit them to master the complex factual data upon which modern legislation is necessarily based. It is here that the "professionals" enter the legislative picture.

Who are these professionals? In the main they are the "career" officials who manage the government bureaus. It is upon these career bureaucrats that the ministers must rely, not only for the drafting of bills, but also for the compilation and analysis of the information essential to their defense in Parliament. If, for instance, the Government decides to inaugurate a new tax, it will instruct the technical officials of the Ministry to Finance to study the probable yield of the tax, the most effective way of collecting it, and perhaps its repercussions upon the national economy. Or, if a proposal for state-subsidized housing is under consideration, the administrative staffs of the Ministries of Labor, Health, and Public Works will be called upon for a concrete "plan." Similarly, the drafting of an act to establish or modify an old age insurance scheme will involve a somewhat different group of officials. Scarcely a piece of social or economic legislation reaches the statute book which does not bear the imprint of one or more "experts" from the government offices.

The less experienced or adept a minister is, the more he is at the "mercy" of his bureau chiefs. Liberal and radical governments, coming into power on a "reform" platform, have more than once been blocked, or at least seriously hampered, in their efforts to prepare a legislative program, by the opposition of a conservative officialdom. Thus was the adoption of

an effective income tax long delayed by resistance from the Treasury bureaucracy. High functionaries of the War and Navy departments have been known to oppose, at times with success, the endeavors of civilian ministers to effect important changes in the organization of the defense establishment of the nation.

In theory, to be sure, the career official is expected to observe an attitude of strict neutrality with regard to policy; and most of the time he does. But there are notable exceptions, arising out of the conflict of social background and economic predilection between the elected representatives of the nation and the administrative hierarchy. The fact that most of the higher administrative class are still recruited from the ranks of the upper bourgeoisie is of no small importance in producing such conflicts. In proportion as administrative posts involving the intellectual tasks of inquiry, coördination, and direction are made available to able young men of *all* social classes—and this is what now is slowly taking place—the upper strata of the bureaucracy may be expected to become as “representative” of the nation as is Parliament itself.

In addition to individual departmental officials, a wide variety of advisory committees and councils engage in a “pre-legislative” activity which has assumed steadily wider importance during recent decades. Some of these committees, inter-departmental in scope, are created by special ministerial order for *ad hoc* purposes and go out of existence as soon as their immediate task is completed. By far the larger number, however, have a more permanent status, based either upon a law or an executive decree. Their membership varies as greatly in size as in the sources from which it is drawn. There are committees of a wholly official composition whose personnel is limited to a small handful of individuals. There is also an imposing array of advisory groups, usually called “councils,” whose membership embraces both departmental officials and “lay” members drawn from the ranks of private citizens. The size of these advisory councils ranges upward to over a hundred members in certain instances, the average being around thirty or forty. With a view to showing the wide range of such advisory bodies in the French governmental system, the names of the *major* departmental agencies of this type are listed below:

<i>Attached to the</i>	<i>Name of the Advisory Agency</i>
Ministry of Agriculture	Superior Council of Agriculture
Ministry of the Air	Superior Council of Air Transport
Ministry of Colonies	{ Superior Colonial Council Council for Colonial Legislation Council of Colonial Hygiene
Ministry of Commerce	Superior Council of Commerce and Industry
Ministry of Labor	{ Superior Labor Council Superior Council for Social Insurance Superior Council for Mutual Assistance Societies Superior Statistical Council
Ministry of National Education	{ Superior Council of Public Instruction Superior Council for Fine Arts Superior Council for Technical Instruction Consultative Committee for Higher Education Consultative Committee for Secondary Education Consultative Committee for Primary Education
Ministry of Posts, Telegraph, and Telephone	{ Superior Council of the P. T. T. Superior Broadcasting Council
Ministry of Public Health	{ Superior Council of Public Hygiene Superior Council of Public Assistance Superior Demographic Council Superior Council for Low Cost Housing
Ministry of Public Works	Superior Railway Council
Ministry of War	{ Superior Council of National Defense Superior War Council

Sometimes the *ex officio* members of these councils are in a majority; sometimes the non-official members. In the selection of the latter, "a wide divergence of practice prevails. In general, an effort is made to represent (1) the important organized groups functionally interested in the policy-area in which the advisory body is to operate, (2) disinterested scientific or technical bodies, and in certain cases (3) members of Parliament or academies, like the *Institut français*. The procedure usually followed in choosing the representatives of functional groups, e.g., chambers of commerce, manufacturers' associations, agricultural *syndicats*, the medical association, the press, labor unions, etc., is to ask the principal national organizations in each functional area to submit a panel of names two or more times as great as the number of seats to which each group

is entitled. From these panels the minister, after consultation with his permanent officials or cabinet colleagues, chooses the prescribed quota of council members. The designation of non-official scientific and technical experts is sometimes made similarly through their associations, but more often directly by the minister."<sup>27</sup> Regional and local interests are also given a voice on some of the advisory groups, as, for example, in the P. T. T. Council, which includes representatives of urban and rural governments, and in the agricultural council, where delegates chosen from the *Offices régionaux agricoles* sit.

In many instances these advisory councils are required by law or decree to meet periodically. Thus the post office and railways councils must convene in plenary session once a month. In other cases the council meets only upon call of the minister. A bureau chief is ordinarily designated to act as secretary. It is his job to prepare the agenda and keep the minutes of council meetings. When the minister attends in person, he acts as the presiding officer; but it usually falls to the highest ranking departmental official to perform the duties of chairman. The meetings are seldom open to the public—on the ground that publicity would cause the discussions to “degenerate to the level of parliamentary debates, where the insidious temptation to talk to the gallery and desert sober facts for flights of eloquence is ever present.” While formal votes are occasionally taken, the tendency is to reach decisions by an informal “sense of the meeting” procedure after full exploration of the question. Not only are the non-official members entitled to submit items for the agenda, but their proposals frequently dominate the business of the meeting.

Before certain decisions, chiefly of an administrative nature, are made by the political head of the department, he may legally be required to consult the appropriate advisory committee or council. So it is that the Minister of the P. T. T. must seek the advice of the P. T. T. Council relative to proposed budgetary changes, rates for service to be charged the public, or technical innovations in the post office. Apart from such obligatory consultation, however, many ministers voluntarily seek suggestions as to proposed bills pertaining to their departments, and secure much valuable technical information

<sup>27</sup> W. R. Sharp, *The French Civil Service: Bureaucracy in Transition* (New York 1931), p. 548. By permission of The Macmillan Co., publishers.



from studies and investigations made by these advisory bodies covering a wide area of policy—such as national defense, colonial, social, and educational legislation. The statistical basis of social and economic legislation is provided by a Bureau of General Statistics. This bureau is nominally attached to the Prime Minister's office and its work is coördinated with the other statistical agencies of the government by the Superior Statistical Council, consisting of a corps of specialists drawn from various government departments, universities and technical staffs, and business and banking institutions.

#### 6. *The Beginnings of Long-Range Planning.*

A far more comprehensive undertaking designed to bring "officialdom" into organized touch with functional interests and scientific specialists in the planning of national policy, is the National Economic Council. This interesting agency was created by executive decree of the Herriot government in 1925. It was the outgrowth of a project advocated five years earlier by the General Confederation of Labor for a "national labor council" of workers, technicians, and consumer representatives whose function it would have been to facilitate the "rationalization of production." Although fear that such a body might claim to be an "economic legislature" and thus challenge the supremacy of Parliament itself prevented the C. G. T. project from securing legislative approval, the liberal Herriot cabinet decided to experiment with a provisionally organized economic council on a purely advisory basis.

As originally set up, this Council consisted of forty-seven titular members, and ninety-four alternates. Thirty members were chosen so as to represent "labor," which was defined as embracing management, employees, artisans, and intellectual workers; eight represented "capital," that is, ownership in industry, commerce, and the banks; and the remaining nine, designed to represent "population and consumption," were drawn from consumers' coöperative organizations, associations of users of public utilities, the National Association of Mayors, and the National Association of Heads of Families. During the ten years following the establishment of the Economic Council repeated efforts were made to get a bill through Parliament which would give the Council a definite statutory basis. Strong pressure for additional representation on the

Council from certain functional groups, particularly agriculture (which had been allotted only four representatives in 1925), led eventually to a considerable enlargement and modification of its membership. By the Law of 19 March 1936, the Council was divided into twenty "professional" sections representing the principal branches of the national economy. In each section the number of employer and worker delegates is equal.<sup>28</sup> These delegates are nominated by the "most representative" organization of employers and employees as determined by a special census. It is their duty to study problems of interest to the occupational groups they represent and to formulate proposals for submission to the "permanent commission" of the Council, which may, if it sees fit, refer them to its "general assembly." In the re-organized Council set-up, the general assembly comprises the following categories of members:

Delegates of professional sections representing agriculture	20
Delegates of employers belonging to other sections	20
Delegates of intellectual and manual workers in these sections	20
Representatives of national economic organizations (divided equally among employers, labor, and agriculture)	12
Representatives of Chambers of Commerce	20
Representatives of Chambers of Agriculture	20
Delegates of labor unions distributed over twenty economic regions	20
Delegates of the Confederation of Intellectual Workers	4
Delegates from artisan groups	4
Delegates from over-seas possessions	12
Delegates of consumers' organizations (cooperative societies, associations of mayors, of large families, of tourists, and mutual aid)	12
Delegates of associations of real estate owners, producers' and agricultural cooperatives	4
Economic experts to be chosen by the General Assembly	5

This large body of 173 persons must meet at least once a year and at any other time when so requested by either house of Parliament or the permanent commission of the Council. The older Council, with less than a third as many members, met four times a year. The experience of a decade, however, clearly demonstrated that the real value of an "over-all" advisory body of this sort was derived much less from its plenary

<sup>28</sup> For an English translation of the essential provisions of this law cf. Rappard, *Source Book*, II, pp. 74-78. "Equality" need not be rigidly applied in the representation of agricultural groups.

sessions than from the work of its committees. The designers of the expanded Council obviously had this fact in mind in providing for the "professional" sections referred to above and also in according greater importance and latitude to the Council's permanent commission. The plenary session is likely in the future to be confined merely to ratifying and organizational activities.

The permanent commission, chosen by the plenary session of the Council, acts as its standing committee. By the new statute it is charged with the duty (1) of receiving requests and suggestions from economic groups, (2) of coördinating the work of the professional sections, (3) of handling relations with cabinet and Parliament, (4) of preparing for the general sessions of the Council, (5) of making investigations of an urgent character, and (6) of deciding all matters on which the full Council may delegate to it the power to act. In addition, the permanent commission, subject to approval by the general assembly, draws up the internal regulations of the Council and determines the composition of its secretariat, or *bureau*. The bureau is headed by a secretary-general, assisted by a deputy and a permanent staff of about twenty civil servants.<sup>29</sup>

During its earlier years, the office of the Council was located in the same building as the Ministry of Finance. More recently it has been housed across the street in the Palais Royal, which is the home of the supreme administrative court (the Council of State). Both this change in physical locale and the transfer of the Council's budget from the Ministry of Labor to the Prime Minister's office may be taken as an indication that the Council has "graduated" from a mere appendage of a government department into a quasi-independent agency.

While it is too soon to tell what the value of the reorganized Council will be, the solid and useful work of its predecessor is now generally admitted. Under the original decree of 1925, the powers of the Council were limited to making inquiries and recommendations. When adopted by a two-thirds

<sup>29</sup> Throughout its life the National Economic Council has been fortunate in having as secretary-general M. Georges Cahen-Salvador, a distinguished member of the staff of the Council of State, to whom the author is indebted for much of his information relative to the rôle of the Council in the governmental process.

vote, recommendations were submitted to the Prime Minister, and he was then obliged to inform the Council within a month what action was taken or return them for reconsideration. The cabinet, moreover, was legally bound to communicate to the Council any and all government bills of an economic or social character. Further, the cabinet could request the Council for a report on any subject, while the latter might undertake fact-finding investigations on its own initiative.<sup>30</sup> The Council came into direct working relations with Parliament in two ways: Any parliamentary committee could ask to be represented in the deliberations of the Council or its permanent commission, and vice versa, the Council was entitled to send representatives to any parliamentary committee hearing which had to do with pending social or economic legislation. Constant contact with departmental officials was provided by an arrangement whereby two "experts" might be designated by each ministry in charge of social or economic services to participate in the discussions of the Council or its standing committee, but without power to vote.

At first the attitude of Parliament toward the Council was tinged with scepticism, if not a little jealousy. For two years parliamentary leaders politely ignored the existence of the Council. "Early in 1927, however, the cabinet suddenly decided to ask the Council for a report on the means of relieving unemployment. This request reawakened parliamentary interest in the new agency. While Poincaré was defending at the tribune of the Chamber the Council's recommendations on unemployment as the work of 'a distinguished body of economic experts,' an interpellation impelled him for the first time publicly to praise the Council as an important instrument with which to combat the technical incompetence of democracy."<sup>31</sup> This incident resulted in so much favorable publicity that little criticism of the Council has since been voiced in Parliament.

From the very start, administrative officials evinced a strong desire to make use of the new advisory agency. Since 1927 all

<sup>30</sup> Under the 1936 law, all *private-member* bills with economic implications must be presented by the Government to the Council prior to their formal consideration by Parliament. The Ministry of Labor must also consult the Council's professional sections in applying the collective labor conventions legalized by Parliament in June 1936.

<sup>31</sup> Sharp, *op. cit.*, 558.

of the major executive departments have regularly taken advantage of their right to delegate two high officials (usually bureau chiefs or divisional directors) to sit with the Council when it is considering matters of departmental concern. With increasing frequency, moreover, ministers turn to the Council for technical advice.

Most of the Council's work has been done through its permanent commission and the numerous sub-committees which have been set up from time to time. From their labors have issued hundreds of reports and recommendations on a wide range of social and economic problems. This activity may be classified under three heads. First is the comprehensive inquiry on housing with which the Council inaugurated its work. Thirty committee sessions were devoted to the development of this impressive report, which provided the inspiration for the Loucheur Housing Law of 1927. The second phase of the Council's work comprises two elaborate surveys of national resources and economic policy which it has conducted on its own initiative since 1926. The first of these was an inventory of transportation, power, communication, and agricultural facilities, and the means of utilizing them more effectively in the national interest. The other inquiry, not yet completed, is still more ambitious. It consists of a series of inter-related studies of each branch of the national economy, industrial as well as agricultural, with a view to determining how productive capacity and consumer purchasing power may be better equilibrated to the joint advantage of entrepreneurs, workers, and consumers. Some of the "synthetic" reports which have already appeared bear the following illustrative titles:

- "The Distribution of Food Stuff's" (April 1933)
- "The Problem of Transport" (February-May 1934)
- "Collective Labor Contracts" (December 1934)
- "Tourism, Thermalism and Climate" (April 1935)
- "French Agricultural Policy" (July 1935)

Since most ministers insist on "putting their own clothes" on the bills they sponsor in Parliament, it is hard to estimate how much influence on legislation these inquiries have as yet had. The Flandin Law on the Coördination of Transport, however, definitely reflects conclusions reached by the N. E. C. The Blum Popular Front Government publicly admitted hav-

ing made extensive use of the Council's studies of labor contracts and the effects of a forty-hour week in preparing the remarkable program of social reform which was forced through Parliament during 1936.

The work of the N. E. C. has not, however, been confined to long-range planning on its initiative. It has also considered a large number of requests from the Government for advice on legislative measures already under consideration. This constitutes the third phase of the Council's activity. Some of these requests have had to do with domestic policy, while others have concerned the foreign economic relations of France. Some of these "domestic" requests grew out of and were made while the two comprehensive inquiries referred to above were in progress. Such, for example, was the case when the Minister of Public Works in 1927 asked for a special report on how to improve French maritime port facilities; again, in 1929, when the Air Minister asked the N. E. C. for technical advice relative to a proposal for the development of an aerial route to the Orient; and still again, the next year, when the Prime Minister consulted the Council concerning a bill to promote the expansion of French refrigeration facilities. Another group of requests dealt with problems which the N. E. C. was not at the moment considering. So it was with a series of questions put to the N. E. C. during the past decade relative to the relief of unemployment by public works; with the request made in 1932 by the Prime Minister's office for a study of how the services of economic documentation might be unified; and with the request for technical scrutiny of a contemplated proposal in 1935 to reorganize the Paris Commerce Exchange.

In the international field, the Government has formed the habit of calling upon the N. E. C. to prepare answers to questionnaires submitted to the French Government by the economic services of the League of Nations. Accordingly, the subject of international "calendar reform" was turned over to the Council in 1930 by the Minister of Foreign Affairs. During the succeeding three years the N. E. C. was similarly asked to formulate observations (1) on the causes of the world economic crisis, in connection with the League's investigation then under way; (2) on the feasibility of an international public works program, such as was contemplated by the

League Assembly and the International Labor Organization in 1931; and (3) on the items constituting the agenda for the World Economic Conference held at London in 1933. To a considerable extent, proposed revisions of French tariff policy have likewise been referred to the N. E. C. for advice prior to parliamentary action.

Although it would be an obvious exaggeration to contend that the development of the N. E. C. and auxiliary advisory bodies has resulted in the general injection of long-range planning procedures into French governmental habits, one can detect a tendency to rely increasingly on these non-political agencies for the factual background of national policy. By such arrangements as have been outlined in the preceding paragraphs the active leaders of the economic community, technical experts both in and outside the services of public administration, and the responsible political executive are being brought into a closer and more articulated relationship. In proportion as these developments grow and take deeper root, the "fits and starts" in the political process caused by cabinet instability should be less harmfully reflected in the stream of legislation that flows from Parliament.

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In concluding our survey of the pre-parliamentary stage in policy-making, brief reference must be made to the rôle of one other agency. This is the Council of State, which serves not only as the supreme administrative tribunal of the country, but also as technical adviser to the Government in the drafting of legislative projects and administrative ordinances. In this second capacity the Council of State may be called upon by the cabinet to examine proposed bills with a view to seeing that their phraseology is clear, that their construction is logical, and still more important, that they are not in contradiction with existing statutory law. To render such technical assistance the Council of State is admirably equipped. Its junior staff officers (*auditeurs*) are recruited by competitive examination from "the cream" of the graduates of the law faculties and the *Ecole libre des Sciences politiques*. The majority of the higher posts (*maîtres des requêtes* and *conseillers*) are filled by promotion from this initial group of young men whose training includes not only public and private law, but public finance, economics, and government as well. To

the remainder of the higher positions on the Council of State the cabinet appoints career officials who have had extensive experience in the art of administration. Thus is joined to the technical competence of the jurist the practical knowledge of the administrator so as to produce as nicely balanced a corps of governmental experts as is to be found in any agency of the French State.

Acting collectively, the cabinet has unfortunately not seen fit to ask the Council of State for technical assistance in the drafting of legislative proposals except on rare occasions. The fact that requests for such aid require the adoption of a legal decree by the cabinet as a whole puts a rather too formal complexion on the procedure. On the other hand, the Council of State, as we shall see later, plays a decisive rôle in the textual preparation of the vast accumulation of ordinances and regulations by which general statutes are "filled in" and applied to specific situations. Moreover, individual members of the Council's staff are constantly utilized as *rapporteurs* for departmental committees, as well as for the committees of the National Economic Council. For technical aid in drafting bills it is common practice for departmental bureau chiefs to call to their offices young *auditeurs* and *maîtres des requêtes* who have a special knowledge of the problem in question. In this indirect way the Council of State functions as a kind of "legislative reference bureau" by which the technical construction of government bills is kept on a remarkably high plane.

The final step in the pre-parliamentary formulation of legislative policy comes when the cabinet, sitting collectively as the Council of Ministers, formally decides to support a given *projet de loi*. Following this action, the text of the bill is printed and the appropriate minister sees that it is introduced in the Chamber or the Senate, according as parliamentary strategy dictates. Preceding the official text of the bill is usually a "report," addressed to the President of the Republic, which explains the reasons why the Government is asking Parliament to enact the measure, together, in many instances, with a résumé of the factual data upon which the bill rests. The bill itself must always bear the signature of the President and the counter-signature of one or more ministers. From this point on its fate is determined by "the rough-and-tumble" of parliamentary debate.



## CHAPTER V

### THE POLICY-MAKING PROCESS: PARLIAMENT

Behavioristically considered, Parliament plays a triple rôle in the French governmental system. Its first function, which is to train and supply political leadership, we have already analyzed. The second is to serve as a forum for the discussion, amendment, enactment, or rejection of the Government's legislative and fiscal program, plus the consideration of such bills and resolutions as are introduced by private members on their own initiative. The third significant aspect of Parliament's work is the control, both direct and indirect, which it exercises over general governmental policy and official administrative behavior. Parliament, that is to say, serves as a recruiting agency for cabinet personnel, as a legislative instrumentality, and as a democratic "safety-valve." It is with the second of these functions that the present chapter is principally concerned.

#### 1. *The Internal Organization of Parliament.*

The French Constitution requires that Parliament "shall assemble each year on the second Tuesday of January, unless convened earlier by the President of the Republic."<sup>1</sup> It is further stipulated that both Chambers shall remain in session for at least five months, during which, however, the President may "adjourn" them simultaneously for a period of not to exceed one month, but not more than twice during the same session. Extraordinary sessions *may* be called at the President's discretion, while he *must* convene Parliament if and when an absolute majority of the members of both houses request it.

The practical operation of these constitutional provisions has resulted in parliamentary sessions which, unbroken except for the summer holidays and a short recess at New Year and Easter, habitually extend over a period of eight or nine months each year. The reason for this quasi-permanence of

<sup>1</sup> Art. 1, Law of 16 July 1875.

parliamentary sessions is to be found in the steadily increasing volume of business with which the two legislative assemblies have to deal. Almost never is the annual budget voted by the end of the regular session, which customarily closes on Bastille Day (14 July). Since the Government cannot long run without revenues or appropriations, it is necessary for a special session to be called in the late autumn (October or November).

The timing of parliamentary sessions rests with the cabinet. In conformance with the principle of ministerial responsibility, every presidential decree convening, adjourning, or closing Parliament must have the approval of, that is, be "countersigned" by, the Prime Minister and his colleagues. During the lifetime of the Third Republic, Parliament has been "adjourned" during its regular session only two times—once by President MacMahon in May 1877, and the other time by Premier Doumergue in March 1934.<sup>2</sup> Nor has a session of the national legislature ever been petitioned for by a majority of its members. This provision of the Constitution has become a dead-letter because (1) Parliament is in session most of the time anyhow and (2) in case of a national emergency arising during a parliamentary recess, such as the threat of war or a financial crisis, the Government would inevitably have to secure authority to act from the Chambers.

According to the Constitution, the sessions of the Chamber and Senate must be public.<sup>3</sup> Publicity is realized in two ways: (1) by opening the sessions to visitors and (2) by publishing a complete verbatim record of parliamentary debates. Because of the limited seating facilities afforded by the public galleries visitors are admitted only by ticket. Complete freedom of speech in Parliament is protected by the historic principle that no member may be held responsible "on account of any opinions expressed or votes cast by him in the performance of his duties"; nor may he while Parliament is in session "be prosecuted or arrested for any offense or misdemeanor, except

<sup>2</sup> There is, however, one further exception to the continuity of the regular session. Near the end of the four-year term of the Chamber of Deputies the Government invariably adjourns both houses in March or early April so as to permit the deputies to conduct their election campaigns. The incoming Parliament convenes shortly after the elections in June.

<sup>3</sup> Art. 5, Law of 16 July 1875.

upon the authority of the chamber of which he is a member, unless he be taken in the very act.”<sup>4</sup>

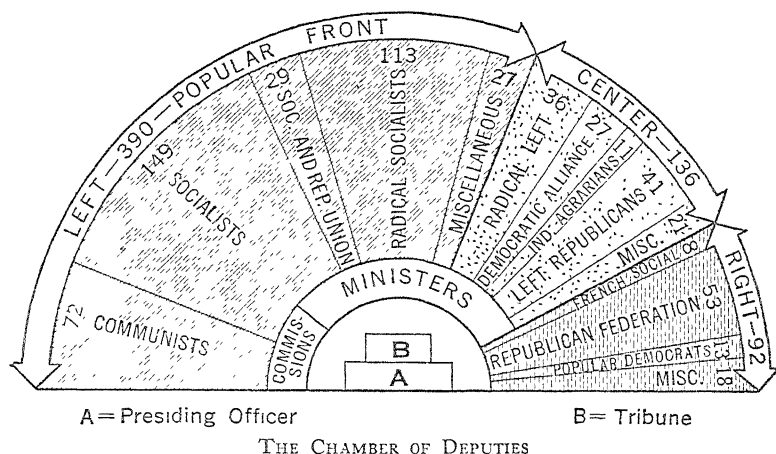
The Constitution permits one deviation from the publicity requirement. Upon the demand of a specified number of members (fifty in the Chamber of Deputies) either house of Parliament may meet in secret “executive session.” While this procedure is seldom invoked in peace-time, it was used several times during the World War for the discussion of military operations and delicate diplomatic negotiations. On the other hand, the French chambers never resolve themselves, as do the British House of Commons and the American House of Representatives, into “a committee of the whole” for informal discussion “off the record.”

Since 1879 the seat of Parliament, which had formerly met at Versailles, has been in Paris. Each house is free to select the building where it shall hold its sessions. Following a tradition established as far back as the French Revolutionary period, the Senate meets in the old *Palais du Luxembourg*, located in the beautiful Luxembourg Gardens (now a public park) on the Left Bank of the Seine River. The Chamber’s meeting place is the *Palais Bourbon*, a stately structure of classic Greek design facing the magnificent Place de la Concorde in the center of Paris. During the nineteenth century each of these ancient “palaces” was more or less remodeled for parliamentary occupancy. The room in which each house meets has the form of an amphitheatre, with rows of seats in concentric semi-circles ranging one above another from front to back. Surrounding the side and rear walls and sheltering behind a colonnade are tiers of narrow balconies (as in an opera-house) which are reserved for use by spectators. At the front center of the Chamber, facing the members’ benches, stands an elevated platform, called the “tribune,” from which both ministers and private members speak. At a still higher level, above the tribune, are the rostrum and desk of the presiding officer. On either side of the tribune there are tables at which a corps of secretaries, clerks, and stenographers sit, while flanking them is a place for the sergeant-at-arms.

As the speaker faces the chamber, its members are seated from right to left in the order of the “radicalism” of the political groups to which they belong. The accompanying diagram illustrates how the membership of the Chamber of

<sup>4</sup> Arts. 13-14, Law of 16 July 1875.

Deputies was distributed in 1937. The right-to-left arrangement dates back to a famous vote of the Constituent Assembly in 1791 on the royal veto. Deputies holding the most advanced political opinions in each sector usually sit nearest the top of the amphitheatre. In assigning seats to the individual members of a party group, its officers have the determining voice, some preference, however, being given to disabled war veterans and members longest in service. The first two rows in the center of the Chamber are reserved for members of the Ministry, while to the left of this "government bench" is



a row of seats reserved for members of the committee to which the bill under consideration was referred.

In the Chamber of Deputies the legislative process is continuous throughout its four-year term, while in the Senate, as a result of its partial renewal every three years, there is no interruption whatever. When a new session opens, the consideration of all bills, reports, motions, et cetera, is resumed at the stage where they were left at the end of the preceding session. Each house, however, not only elects new officers annually, but formally adopts its rules of procedure at the beginning of each regular session. Collectively, the officers make up what is called the *bureau*. In both houses this includes a president, or speaker; a number of vice-presidents (usually four to eight); several secretaries, whose duties are to count votes and supervise the preparation of records; and three

questors, who have charge of payments to members and look after the library. The election of officers takes place by secret ballot. This method of voting is used in order to emphasize its non-partisan character. Nonetheless, political considerations are not entirely absent in the choice of a presiding officer. Despite the fact that his duties theoretically entail impartiality, there is a tendency for the Chamber, less so the Senate, to divide along political lines when it chooses a new speaker. This habit has not gone so far as to reduce the office to the admittedly partisan level upon which it rests in the American House of Representatives, but it has prevented the President of the French Chamber from attaining the position of dignified neutrality for which the Speaker of the British House of Commons has long been noted. Elected by the current majority coalition, a new presiding officer of the Chamber is a man whose political views are generally in sympathy with that majority. On the other hand, it has become the rule to reelect the speaker indefinitely, regardless of how the political equilibrium of the Chamber has shifted in the meantime. This was notably the case with the veteran Socialist, Ferdinand Buisson, who served as presiding officer from 1926 until 1936.<sup>5</sup> When, however, the Popular Front got control of the Chamber during the latter year, it lined up solidly behind M. Herriot, the former leader of the Radical-Socialist party, who had previously refused M. Blum's plea to take the portfolio of Foreign Affairs.

To the presiding officers of both houses a hierarchical pre-eminence has been accorded which places them immediately below the President of the Republic in rank. At all formal state functions the second position in line is taken by the President of the Senate and the third by the President of the Chamber. We have already observed how these offices have tended to become a sort of pathway to the presidency of the Republic. Further recognition of their ceremonial importance may be seen in the sumptuous apartments which have been set apart for the personal use of each presiding officer in the

<sup>5</sup> Buisson resigned his office in June 1935 to accept an invitation from President Le Brun to become Prime Minister. Despite the fact that the cabinet he formed was humiliatingly rejected by the Chamber only a few days later, Buisson was immediately re-elected to the speakership by the same men who refused to support him as head of the Government.

Palais du Luxembourg and Palais Bourbon respectively. These official residences, unequalled in splendor by those of any other dignitary except the Chief of State himself, form the locale of gala official receptions. In addition to their parliamentary salaries, the two speakers receive generous allowances for entertainment, secretarial assistance, and the maintenance of an official automobile.

The duties of the president of each house are substantially the same. They preside over its deliberations, recognize members, put votes, interpret the rules of procedure, and preserve order and discipline while the house is in session. Any member causing undue disturbance may be called to order by the speaker. If the disturbance nevertheless continues, the presiding officer may again call him to order "with inscription in the *procès verbal*" of the sitting. If necessary, more severe penalties may be inflicted by vote of the Chamber as a whole. These penalties include (1) a simple censure and (2) a censure which entails the exclusion of the member from the building for fifteen meetings and may include the deduction of half salary for a period up to two months. If a deputy reappears in the house during the period he is under ban, he may be temporarily arrested by the questors for a period of three days. This procedure may be repeated.

Contrary to time-honored usage in Anglo-Saxon parliamentary bodies, the French speaker does not wield a gavel. Instead, whenever the Chamber becomes noisy or disorderly, he clangs a large bell. If this has no effect, he puts on his hat. If the uproar persists, he may threaten to suspend the sitting. As a last resort, he may actually carry out the threat by walking out of the hall. If the disorder continues when the sitting is resumed, the house may be adjourned until the next day. As might be inferred from the impulsive nature of the French, the maintenance of order in the Chamber of Deputies is no easy task.

The safety of Parliament from attacks menacing it from outside its own walls is provided by stationing within each parliamentary edifice a small force of armed guards upon which the speaker may call for assistance. If the danger becomes formidable, he may further request the military *commandant du palais* to summon aid from the regular military establishment. Behind this provision lie certain famous prece-

dents in parliamentary history by which the legislature's corporate independence of the executive was gradually established.

Although it is permissible for the presiding officer to participate in debate and even to vote, he seldom uses these prerogatives. In the early years of the Republic, Gambetta was known to leave the chair on several occasions in order to speak in defense of electoral reform. Not until 1926, however, was "the rule of neutrality" again broken. On 17 July of that year President Herriot descended to the tribune for the purpose of opposing the grant of emergency legislative power which the Briand-Caillaux cabinet was then seeking from the Chamber of Deputies. It was Herriot's intervention in the debate that tipped the balance against the Government on this issue and forced it to resign shortly thereafter.

General reference was made in the preceding chapter to the way in which the standing committees of the Chamber and Senate are constituted. This standing committee system is of recent date. Until the first decade of the present century, legislative committees were chosen in a most quaint fashion. The membership of the Chamber was divided "by lot" into eleven *bureaus*, or sections. These bureaus were reconstituted every month during the session. All bills were referred to the bureaus for a perfunctory preliminary examination, following which a special committee would be set up, consisting of one or two members selected by each bureau, to handle each bill. As soon as this committee had completed its consideration of a bill, it went out of existence. Such a fortuitous arrangement—a historic vestige of the days before cabinet responsibility to Parliament was fully recognized—gradually broke down under the heavy burden of legislative work in the twentieth century. Moreover, the special and temporary committees, "themselves the offspring of lot, might easily reflect the tendencies of the opposition and harass the cabinet by recasting its measures."<sup>6</sup> In 1902 the Chamber decided to institute a set of permanent committees, based upon the principle that every deputy should be assured of a place on at least one committee, although the personnel of the committees was still to be chosen by the bureaus. Eight years later the method of selection was changed to the present system, by which, as we

<sup>6</sup> E. M. Sait, *Government and Politics of France* (Yonkers-on-Hudson, 1921), p. 208. By permission of the World Book Co., publishers.

have seen, every organized party group is entitled to representation on each standing committee in proportion to the numerical strength of the group.<sup>7</sup> By this reform the significance of party activity in legislation was officially recognized for the first time. In 1921 the Senate recast its committee system along substantially similar lines.

Today the distribution of work among these *grandes commissions permanentes* (as they are called) closely parallels the distribution of functions among the administrative services of the government. A glance at the list of the twenty permanent committees in the Chamber of Deputies will reveal this correspondence:

<i>Name of Committee</i>	<i>Corresponding Ministry or Service in the Chaumet's Government of June 1937</i>
1. Foreign Affairs . . . . .	Foreign Affairs
2. Finance	
3. Closed Accounts and Econo- mies	Finance
4. Civil and Criminal Jurisdic- tion . . . . .	Justice
5. General, Departmental and Communal Administration	Interior
6. Army . . . . .	National Defense
7. Navy . . . . .	Marine
8. Merchant Marine . . . . .	Merchant Marine (under-secretary- ship)
9. Aviation . . . . .	Air
10. Commerce and Industry	Commerce
11. Customs and Commercial Agreements.	
12. Agriculture . . . . .	Agriculture
13. Labor . . . . .	Labor
14. Hygiene	Public Health
15. Social Insurance and Welfare	
16. Instruction and Fine Arts . . . .	National Education
17. Public Works and Communi- cations	Public Works P. T. T.
18. Mines and Motor Force	
19. Algeria, Colonies and Protec- torates . . . . .	Colonies
20. Alsace-Lorraine . . . . .	Alsace-Lorraine Service (attached to the Prime Minister's office)

<sup>7</sup> In order to discourage further "atomization" of the Chamber into small party groups, its rules were amended in 1932 as follows: (a) no group may be validly constituted, for representation on committees or otherwise, until it submits a political program signed by all its members; and (b) deputies not officially enrolled in any group must attach themselves to some group in order to secure committee appointments. These requirements, alas, seem to have had little effect upon the inveterate individualism of the deputies!



In the Senate, where they are only eleven grand standing committees, the parallelism with government departments is less close.

Additional "permanent" committees (not called *grand*) are frequently created in the Chamber of Deputies by simple resolution. This second category of committees differs from the first in not being specifically provided for in the rules (*règlements*) of the house. They are also smaller in size, having ordinarily only thirty-three members, in comparison with forty-four for the grand committees. Moreover, the life of the latter type of committee is fixed by the resolution, while the "grand" committees must be formally renewed each June (though they in fact function continuously throughout the legislative term). Among the "non-grand" committees are two which are habitually set up every term, namely, the Committee on Rules and the Committee on Universal Suffrage.

By establishing permanent committees which would accurately mirror the political complexion of the legislature, it was hoped not only that the task of the ministers in steering their bills through the house would be facilitated, but also that Parliament itself might be equipped with a more effective instrumentality for legislative supervision and control. The first of these hopes has been only partially fulfilled. By and large, the grand permanent committees do work in closer collaboration with the cabinet of the day than was the case under the earlier system. The proportional method of distributing appointments produces a committee the majority of which, nominally at least, is in sympathy with the views of the majority of the Chamber of Deputies and therefore, presumably, with the cabinet, since the latter is the creation of that majority. But majority alignments are constantly shifting. In the meantime, a committee will by secret ballot have elected its chairman and *rapporteur* for the year. It may, and in fact often does, turn out that one or both of these "key" men will not be in accord with the politics of a new government coming into office later in the year. What is more, it sometimes happens that a committee, on account of the peculiar composition of its membership, will defiantly choose as its chairman an opponent of the ministry in office when the choice is made. A striking example of this took place after the parliamentary elections of 1928. Despite the fact that 440 of

the 607 deputies had been elected to the Chamber as "Poincaréists," thirteen of its twenty grand committees chose political adversaries of Poincaré as their chairmen, including four members of the moderate Left. It is scarcely surprising that M. Poincaré should have become a bitter critic of the standing committee system. He complained in particular of the habit the committees have of regarding themselves as "little parliaments" and of trying to "substitute themselves for the administrative services" of the government. It was necessary, he declared, especially in dealing with matters of finance and foreign affairs, for the minister to defend his policy in detail before four different bodies—two powerful and often hostile parliamentary committees, as well as the full Chamber and Senate. Such a task was enough to dishearten the strongest of ministers.

Added point is given to this criticism by the fact that the committees do their work in secret session. Aside from the minister, only such high officials as may be designated by him for the purpose, the introducers of private bills, and the authors of amendments to bills may directly appear before a committee. When votes determining committee action are taken, not even the minister himself is permitted to be present. In such a setting a clever and ambitious *rapporteur* can often get a report adopted which will give him a golden opportunity to riddle the Government's policy on the floor of Parliament and perhaps put himself in the spotlight as the minister's "successor."

Yet, even though the permanent committee may be an "instrument of torture" to the executive, it is undoubtedly an effective device for legislative supervision, if not obstruction, from the viewpoint of Parliament.<sup>8</sup> In no other national assembly are legislative proposals subjected to more minute and prolonged committee scrutiny. The Committees on Finance of the Chamber and Senate literally spend months going over the budget with a fine-tooth comb. This scrutiny is all the more rigorous because of the "specialization of labor" which has resulted from the group method of selecting committee members. It is the practice to keep on the same committee those men who develop special competence in the policy-area

<sup>8</sup> Cf. L. Rogers, "Parliamentary Commissions in France," *Pol. Sci. Quarterly*, December, 1923.

covered by the committee, whether it be taxation, maritime ports, viticulture, education, or something else. Thus there is always a nucleus of experienced and informed members who bear the real brunt of the committee's work. The rule adopted in 1932 whereby no man may serve on more than two committees (only one in the case of finance or foreign affairs) is likely to accentuate still further this division of labor.

The large size of the "grand" committees does, however, slow down their operations. Committees of forty-four members are such cumbersome and unwieldy bodies that a good deal of their intensive work has to be delegated to sub-committees. This practice has added still another cog to the legislative machinery and helped to retard its wheels. Committee habits follow a leisurely tempo. Regular meetings are held weekly on the day set when the committee organizes, but as the parliamentary session advances, special meetings called by the chairman are frequently necessary. The notoriously bad attendance at committee meetings "is such a fixed tradition, that, in spite of the stipulation of the *règlement* requiring a quorum and instituting other devices calculated to secure better attendance, only some special occasion as a rule causes a large majority of members to attend a particular meeting. In most committees the average attendance is apparently not likely to be more than ten."<sup>9</sup> At the same time, the large legal membership is an obstacle to the expedition of the final stages of a committee's crowded docket. So long as the theory is held to that every individual deputy, regardless of ability or aptitude, should be entitled to participate in committee work, there seems to be no easy solution to this problem in a legislative body as large as the Chamber of Deputies.

## 2. *Legislative Procedure.*

Each house of Parliament operates under fixed rules of procedure (*les règlements*). Originally adopted in 1866, they have been subsequently modified on several occasions, and in the case of the Chamber of Deputies were drastically revised in 1915. In addition to determining the officers and commit-

<sup>9</sup> R. K. Gooch, *The French Parliamentary Committee System* (New York, 1935), p. 161. By permission of D. Appleton-Century Co., publishers.

tees of the house, their powers and duties, the rules govern the drawing up of the agenda, the reference of bills to committees, the conduct of debate, and methods of voting.

In the Chamber of Deputies, as was indicated earlier, a calendar of business is prepared each week by a conference composed of the president and vice-presidents of the Chamber, the chairmen of the grand committees, and the president of each officially organized political group. If it cares to, the Government may present its views to this steering group, and often does so when the legislative situation becomes "jammed." This weekly "order of the day" is submitted to the Chamber for approval, after which it is printed in the *Journal Officiel* and posted in the lobbies. It may be altered by the Chamber only on the request of the Government or on a demand signed by fifty members, whose presence must be ascertained by roll-call."<sup>10</sup>

When government bills are introduced, they are as a matter of course referred by the presiding officer, without being read, to the appropriate standing committee; or, if the Chamber so orders, to a special committee set up to consider a specific proposal. Private-member bills, on the other hand, travel no such easy path. In many cases they are blocked at the outset by the speaker or the Chamber itself, on the ground of violating the rules of the house, existing statutes, or even the Constitution. What this means is that government bills tend to have the right of way. If and when it reaches the committee stage, many a private-member bill is killed or modified in accordance with the minister's wish in the matter.

While considering a bill, a committee may call witnesses from outside the membership of Parliament and secure expert testimony from private citizens, as well as government officials. The rules specify that a committee must present a report on every proposal submitted to it within a period of four months, in the Chamber, and six in the Senate. Should a committee fail to report, any private member has the privilege of calling the measure before the Chamber—a privilege, however, which appears to be without much practical value. Nowadays the official record of committee business is periodically published in a *Bulletin des Commissions*, and once a year the secretariat of the Chamber of Deputies is required to prepare

<sup>10</sup> *Ibid.*, p. 169.

a report indicating the action each committee has taken to date on the measures before it. Since, however, the proceedings are secret, no verbatim account of committee hearings reaches the public. The latter usually has to depend for such fragmentary information as it gets upon inside bits of news gleaned by journalists from committee members.

When the committee report on a bill is ready, it is given a place on the legislative schedule of the Chamber in terms of the relative importance or urgency of the measure. The Government naturally has much to do with determining the "priority" of the public bills which it is sponsoring. In exceptional circumstances a bill may be discussed immediately if the Government requests it and the Chamber approves. When this procedure is invoked, the committee must make a summary report within three days and the Chamber may then decide to debate the bill at once or make it the first order of business at the next day's sitting. In any event, the report of the committee is published in the *Journal Officiel* and so becomes available at once to the members of both houses, the press, and the public.

During the debate on a bill, the committee which has reported it is seated directly to the right of the members of the Government on the first two benches immediately facing the tribune (see the diagram on page 109). This setting, as it were, serves to dramatize the parliamentary duel which so frequently follows between *Monsieur le Ministre* and *Monsieur le Rapporteur*, especially if the Government's bill has encountered rough sailing in committee seas. General debate normally begins within three days after the committee's report is received by the Chamber. Unless the latter orders a second reading of the bill, a thing which rarely happens, it is read only once. The first discussion is concerned only with the general principles of the bill. If it survives this discussion, it is then taken up section by section.<sup>11</sup> Amendments and additional articles may be offered from the floor at this stage. Finally, after what may be days or even weeks of argument, the bill, either as amended or as originally reported out of committee, is again voted upon as a whole. A

<sup>11</sup> Even if the committee text is defeated, the rules permit the Government or the individual author of a bill to demand a vote on the original measure. This procedure, however, is rarely invoked.

favorable vote at this stage signifies that the bill has passed and is ready to be transmitted to the other house.

By long established practice the *rapporteur* opens the general debate by an extended speech explaining and defending the action of his committee. The appropriate minister replies in turn. Private members who wish to be heard must register their names in advance with the presiding officer. As a rule the order in which they may speak is determined by the order in which their names appear on the presiding officer's list, although members especially designated by their respective party groups to speak on a bill are given priority over their colleagues. As far as possible, speakers are alternated so that an opponent of a bill follows a supporter at the tribune, and so on. Any member of the Government, and the president and reporter of the committee in charge of a bill, are privileged to speak at any time and as often as they desire. On the other hand, no other member of the Chamber may speak a second time until all who desire to participate in the debate have had a chance to speak once.

Since 1926 the rules of the Chamber of Deputies have differentiated still further the privilege of addressing the house. Those deputies who are delegated by their political groups to speak have up to one hour at their disposal, while non-privileged members are limited to fifteen minutes. This rule was designed to favor the better qualified debaters—on the assumption that party groups would select such men to present their points of view. For similar reasons committee chairmen and reporters are beneficiaries of the "hour rule."

Closure may be invoked by majority vote of the Chamber after at least two deputies (*not* ministers or the committee chairman or reporter) on opposite sides have spoken, provided that a motion for closure may not be made immediately following a speech by a minister. The primacy of Parliament will not allow the Government to have the last word. A single deputy may speak for five minutes against a closure motion, after which it must be put. The adoption of this closure rule became necessary in order that the Chamber might handle with greater dispatch the ever-growing mass of legislative business which now comes before it. The degree to which closure is attempted varies directly with the strength of the Government's majority and the congestion of business

as the session advances. Closure is practically never proposed except on the initiative of a minister.

Non-controversial private-member bills are frequently passed as reported out of committee, without any debate by the full house. This procedure is possible when the "conference of presidents" puts a bill at the head of the agenda for two sittings on the condition that there shall be no debate on it. If a single deputy objects, the proposal is withdrawn from the agenda and obliged to wait its regular turn; otherwise, it is voted without discussion at the opening of the second sitting. By resorting to this short-cut procedure the Chamber can relieve its legislative docket considerably.

Four different methods of voting are used in the French Parliament. (1) The first and most informal method is by show of hands. (2) In case of doubt as to the result, the chair may call upon the members to rise in their places. (3) If as many as twenty members so petition, or whenever the Government puts "the question of confidence," a vote by individual ballot (*scrutin public*) is obligatory. Each deputy or senator thereupon inserts in a box attached to his seat a white ballot if he desires to vote affirmatively, or a blue one if his vote is negative. The ballots are then collected and the result tabulated. Since his name is printed on the ballot, a record of each member's vote is made and published in the *Journal Officiel*. The deputy is thus obliged to assume personal responsibility for his vote before his constituents. The use of this individually recorded vote has, however, led to certain abuses. The least serious of these abuses arises from the right of absentees to be voted "by proxy." It is not uncommon for proxy voting to be employed by the wholesale. The minority element in a party group will often put into the "urn" a whole handful of ballots for the absentee majority; or a single minister will cast votes for all his absent colleagues. A more flagrant abuse results from the right of members to change their votes after the ballot is taken. A deputy may vote for the Government so that it may get its majority; then, if the majority is ample, announce, in order to please his constituents, that he really intended to vote the other way, and ask that his vote be registered accordingly. Absentees are notoriously prone to indulge in this demagogic maneuver both for and against the Government. Such "rectifications" have been

known to change a majority into a minority, or vice versa. The most reprehensible practice, however, is for several deputies to cast a ballot for the same absentee, thereby leading to the absurd situation in which the total number of votes cast exceeds the total number of members of the Chamber! In a vote on a question of confidence put by the Chautemps Cabinet on 25 February 1930, for example, 2000 votes were cast for 612 deputies. In such cases the secretaries of the Chamber are obliged to draw, by lot, a single ballot for those deputies for whom multiple votes have been deposited by their party associates.

(4) In order to prevent these abuses, a more rigidly controlled method of voting is employed whenever fifty members so demand in writing. This procedure is known as the *scrutin public à la tribune*. Each deputy hands his ballot to the teller, who deposits it in a special urn placed upon the rostrum in full view of the house. As he votes, the deputy's name is checked off on an alphabetical membership list. The ballot box remains open for an hour in order to allow time to call in the absentees, since neither proxy voting nor the alteration of recorded votes is permissible under this procedure. A system of electric bells rings throughout the building so that members may know when votes are being taken.<sup>12</sup> Notwithstanding the "hour rule," the *scrutin à la tribune* is occasionally demanded by opposition groups as a surprise maneuver against the majority, especially during late night sittings after many deputies have gone home.

The climate of debate in the Chamber of Deputies alternates from a cool calm to feverish tumult. As already suggested, the physical arrangement of the hall is conducive to that full-dress oratory for which Latin peoples are famous. Every speech at the tribune offers an occasion for eloquence, and those deputies who excel in it, of whom there are many, seldom forego the opportunity to display their histrionic talents. "Everybody," observes a distinguished French philosopher, "laughs at the bombastic eloquence resounding in Parliamentary houses and obviously destined for some far-

<sup>12</sup> One ring indicates the opening of a sitting; two rings, a *scrutin public ordinaire*; three, adjournment of the sitting; four, a *scrutin public à la tribune* or a *vote de confiance*; and five, the suspension or resumption of a sitting. In the lobbies there is also a "ticker tape" mechanism which reports the progress of business inside the chamber.



away constituency. There would be an easy method for greatly diminishing this evil, which would be to compel orators to speak seated, but who thinks of it?"<sup>13</sup> Certainly no French parliamentarian, short of wanting to commit political suicide, would seriously propose such a "revolutionary" reform! Nor would it work, for in the heat of argument a Frenchman must have room to make those gesticulations which are inherent in his animated manner of speaking.

For the spectator, therefore, a meeting of the French Chamber is rarely dull. On the contrary, it usually presents a battle of wits in which logical analysis and subtle finesse constitute favored weapons. Heckling from the floor is both frequent and penetrating. When the temper of debate reaches a crescendo, angry extremists right and left may throw the Chamber into a turbulent uproar. Try as he may, the presiding officer's efforts to restore calm often proves futile and he may be obliged to suspend the sitting. Sometimes physical violence is resorted to by peculiarly hotheaded members. So it was during a debate on the withdrawal of the French Ambassador from the Vatican in March 1925. After several fist fights had taken place, the sitting was twice suspended and one reactionary deputy was forcibly expelled by four stalwart guards before order could be restored. Ballot boxes were used as missiles. Premier Herriot twice had to leave the tribune, while at one stage the Left majority rose and sang "The Marseillaise" *en masse* as a rebuke to the obstructionist tactics of the clericals and royalists. During a visit to the Chamber in 1922 the writer saw a royalist deputy hurl an ink bottle across the room at one of his communist colleagues. Fortunately for the latter the aim was wild! While the Chamber was discussing the Stavisky scandal in January 1934, M. Henriot, a vitriolic member of the Right bloc, verbally attacked two of the ministers in an obnoxiously personal manner. An infuriated young Radical deputy ran down the aisle and, shaking his fists at M. Henriot, shouted, "How much are you getting for this?" Deputies thronged about the tribune, desks banged, the Communists sang "The Internationale" and screamed "*Les Soviets partout, les Soviets partout!*" On this wild afternoon the sitting was not only suspended, but the public galleries were ordered cleared for the

<sup>13</sup> E. Dimnet, *The Art of Thinking* (New York, 1929), p. 28.

first time in many years.<sup>14</sup> On another occasion, in 1932, an old rule against taking canes into the Chamber had to be resurrected when a deputy "profaned the dignity of the Chamber by seizing a walking-stick belonging to another member and raising it against a colleague who was at variance with him during a heated debate."<sup>15</sup> Again, on 6 June 1936, when a reactionary deputy heatedly deplored the fact that for the first time France had a Jew as Prime Minister, pandemonium broke loose. Socialist deputies menaced the speaker and Premier Blum, turning pale, left the Chamber vociferously acclaimed by the entire Left majority. President Herriot rebuked the speaker and asked him to withdraw the insult. Upon refusal, a formal reprimand was inserted in the record of the sitting.

Yet it should not be supposed that the French Chamber is always blowing off steam in such explosive fashion. Poincaré and Briand could hold its rapt attention for hours, the first always speaking from a carefully prepared "lawyer's brief," with voluminous memoranda at hand, the latter casting a spell over his audience without using the least semblance of a note.<sup>16</sup> Even the opposition benches will ordinarily listen respectfully to a minister who can marshal his facts with unassailable logic and present them with lucid facility.

When a government bill is being steered through the Chamber, certain high administrative officers, designated for the time being as "government commissioners," are permitted to sit near the ministerial benches. These officials act as "prompters" for their departmental chief by supplying him with such factual information as he may need in defending his policy. Upon occasion a commissioner may be allowed to address the Chamber (or Senate), which usually listens "with cold courtesy," but he may never personally participate in the debate or vote. During the discussion of the budget, these *commissaires du gouvernement* cluster as "thick as flies" around the cabinet benches. A troop of generals will accompany the Minister of War into the Chamber when he is to speak on military affairs. Or, to take another example, if colonial legis-

<sup>14</sup> A. Werth, *France in Ferment* (New York, 1935), p. 111.

<sup>15</sup> *New York Times*, 13 Feb. 1932.

<sup>16</sup> It is said that Briand, an inveterate smoker, used to recline on a couch in the Quai d'Orsay and think out his speeches while puffing away at one yellow cigarette after another.

lation is under consideration, the Chamber will give close attention to a colonial governor's explanation of the needs of his jurisdiction.

The progress of legislative debate on the floor is accompanied by considerable activity in the lobbies outside the Chamber proper. Here, in the famous *Salle des Pas Perdus* and the *Salle des Quatre Colonnes*, deputies and journalists informally mingle together. A familiar sort of *cameraderie à la française* prevails and the most bitter political enemies may be heard addressing each other as "*mon view*" and exchanging jokes at the cigarette counter or the bar. It is in this gossip atmosphere that under-cover political deals are arranged by scheming party leaders and political intrigue flourishes. For, in the light of what has already been said of the looseness of the bonds of French party discipline, the alignment on a great deal of the legislation before Parliament does not follow strict party divisions.

To be sure, on those controversial measures on which the major party groups have taken a clear-cut position, party solidarity tends to prevail. Party groups on the Left, moreover, repeatedly caucus during the parliamentary session in order to determine what their attitude shall be on questions which develop new angles as debate progresses. Under Radical-Socialist and Socialist practice, the party executive council customarily sits with the parliamentary caucus. In recent years there has been a growing tendency for left-wing party organizations to develop into a kind of extra-parliamentary agency of control over legislative action. In 1925, for example, the Radical-Socialist Congress at Nice voted for a capital levy against the stand of the Painlevé-Caillaux Ministry, on which the Radicals were then represented. The cabinet was consequently obliged to resign. Again, three years later, the national congress of this same party, meeting at Angers, decided that its program could not be carried out under the Poincaré "National Union" formula and accordingly instructed its leaders who were in the Poincaré cabinet to withdraw. This action so changed the parliamentary situation that the Prime Minister proceeded forthwith to submit the resignation of his Government in order to avoid direct defeat on the floor of the Chamber. Although the next Cabinet was also headed by Poincaré, the axis of its parliamentary majority

shifted to the Right-Centre and its legislative program had to be altered accordingly. The withdrawal of Radical ministers, under party instructions, forced the resignation of Doumergue in November 1934 and Laval in January 1936. When this happens, previous parliamentary action on pending legislation is frequently reversed. Bills may be withdrawn, returned to committee for redrafting, or drastically amended on the floor of the house.

As a rule, members of the Government cast a united vote in the Chamber in support of measures which the cabinet has previously approved. Occasionally, however, dissension within cabinet ranks becomes so sharp that certain ministers insist on the right to vote against a Government bill and are allowed by the Prime Minister and the majority of their colleagues to do so without incurring the obligation of resigning from the Ministry. Thus it was that three Radical ministers cast their ballots in June 1927 against the Poincaré Government's proposal to concede the State match monopoly to a Swedish concern. When the question of confidence is not put by the Government, it is understood that each minister is free to vote as he wishes.

While a sizable proportion of party platform planks do eventually find their way to the statute book in some form or other, comparatively few manage to get through the legislature mill without substantial amendment. Despite the remarkably solid majority which the Blum Popular Front Government retained in the Chamber from June 1936 to June 1937, some of the most important items in its reform program became laws only after substantial concessions had been made during the course of debate, especially in the Senate.

The fate of much legislation is determined by parliamentary alignments which take the form of "interest blocs" cutting squarely across party boundaries. In both Chamber and Senate such blocs are numerous. Deputies and senators are continually organizing into special groups for the defense of the peasantry, vine-growers, tobacco producers, sugar-beet growers, or what not. There may be one bloc whose professed concern is the advancement of the public schools; another, the interest of State employees, or war veterans, or large families, or French youth, or perhaps the *concierges* of Paris! There is always a "colonial bloc" and usually a "tariff bloc." For many

years the issue of electoral reform divided the Chamber into two blocs in which the Right and extreme Left were united against the Centre and moderate Left. To a large extent the formation of parliamentary non-party blocs reflects the activity of those pressure groups in the country—regional, civic, and economic in character—to which reference was made in the preceding chapter.<sup>17</sup> Pressure group lobbying before parliamentary committees and in the corridors of the Palais Bourbon and Palais du Luxembourg has its own image in the superimposition of interest blocs upon the party structure of the legislative assemblies. In the French parliamentary system bloc politics derives a peculiar force from the typically weak position of a coalition executive before a legislature to which it is politically responsible, but over which it lacks the counter-power of dissolution.

### 3. *The Effects of Bi-cameralism.*

The passage of a bill by one house of Parliament represents but the half-way stage in the progress of the measure toward final enactment. It must survive the gauntlet of both assemblies in identical form before it can be promulgated as law. Broadly speaking, the bi-cameral system tends not only to slow down the legislative mill, but sometimes to choke it completely. The first opportunity for delay comes as soon as one chamber has acted on a measure. It must then be officially transmitted to the other chamber. If it is a government bill, the task of transmission falls to a minister; if a private-member bill, to the presiding officer of the house which has passed it. Under the rules of the Chamber of Deputies, the minister has a month in which to submit his bill to the Senate. If he has not acted within that time, the Speaker is obliged to "re-mind" him of his duty. In order to expedite important bills, the Chamber may vote that they must be transmitted within three days after passage.

Since most Government projects originate in the Chamber, there is ordinarily no undue delay in getting them before the Senate. The reason for this is obvious: it is to the minister's interest to push his bill through both houses as speedily as possible. On the other hand, the Senate, addicted to leisurely

<sup>17</sup> For further examples of parliamentary blocs, cf. the enumeration made by André Tardieu (reproduced in the *Source Book*, II-79).

habits of work, is prone to procrastinate in dispatching non-government bills to the popularly elected assembly. Probably the most notorious instance of the Senate's dilatoriness came to light in June 1928 when, among some forty bills that were sent over to the Chamber, there were a few that had been voted by the Senate forty-five years earlier!<sup>18</sup> With no one in particular to take care of them, they had apparently been lost in the legislative shuffle.

Delay, however, arises mainly from the refusal of the second house to adopt the measures of the first, either in any form at all, or in such form as is acceptable to it. Here, again, it is the Senate rather than the Chamber that acts as the brake on legislation. With a membership only a third renewed at any given time and in no way subject to the direct will of the electorate, the Senate may resist popular opinion with impunity—except in time of national crisis, when it dares not because of its fear of the violent repercussions that might ensue. The list of important legislative reforms whose adoption was long delayed by senatorial hostility or inertia is an impressive one: (1) woman suffrage, which has passed the Chamber nine times since 1919 and is still unrealized; (2) the secret ballot, which was defeated five times in the Senate (1904 to 1913) before it was finally adopted; (3) the income tax, delayed from 1909 until 1917; (4) proportional representation, delayed from 1912 to 1919; (5) the law establishing a weekly rest for industrial workers, delayed from 1902 to 1906; (6) old age pension legislation, which the Senate discussed for years but refused to accept until 1910.

Since the World War, the Senate has, by and large, shown less stubborn resistance to the will of the popular Chamber. Since 1934, moreover, the former body has been a staunch defender of democratic liberty against fascistic encroachments upon it. The Senate forced the Laval Government of 1935 to put teeth into a bill for the dissolution of subversive political leagues like the *Croix de Feu*. When the Blum Popular Front Government came into office in 1936, the Senate coöperated by voting promptly and with little change the Premier's bills

<sup>18</sup> One of these was a bill to relieve witnesses before criminal and civil courts from swearing on the Bible. The Minister of Justice was reported to have discovered the weather-beaten document bearing this notation: "Passed by the Senate, February 26, 1883."

establishing a forty-hour week, collective wage contracts, paid vacations for workers, and raising the school age. On the other hand, the Senate emasculated his press bill on the dubious contention that its enactment would endanger freedom of the press. It was due to senatorial hostility that the Government's bill to democratize the control of the Bank of France emerged a weaker instrument than would otherwise have been the case. Later, in September 1936, although the Senate approved in principle Blum's plan for devaluing the franc, it "rebelled against the 'social counterpart' proposed by the government: a sliding scale for wages, and increases in wages, pensions, etc., to offset the evil effects of devaluation."<sup>19</sup> The antagonism of the Senate to this proposal was so bitter that it threatened to overthrow the Blum cabinet if the latter did not yield. Although the actual effects of devaluation on the French national economy appeared to substantiate the Senate's contention in this instance, its opposition caused much resentment among the working classes and revived agitation in Socialist and Communist quarters for the abolition of the second chamber. When the Senate's refusal to grant emergency financial powers to the Blum Government in June 1937, and again in April 1938, led to the cabinet's resignation, attacks on the Senate from the extreme Left broke out afresh. On the latter occasion thousands of angry Socialists filled the streets outside, shouting "Down with the Senate."

So far, we have been viewing the Senate as an agency of obstruction to legislative change. Is there a better case for it as an agency to improve the technical quality of legislation? Does the double scrutiny of bills by two assemblies aid in eliminating ambiguities, contradictions, and "jokers" from the final legislative product? There is no doubt that in many instances the construction of statutes has been improved as a result of amendments imposed by the Senate (or Chamber), and some obviously bad legislation has been prevented. But it is doubtful if this gain is not offset by the insidious opportunities for "buck-passing" which are presented by the existence of two coördinate branches in the national legislature. Not uncommonly the Chamber will pass half-baked or demagogic measures demanded by special interests in the expecta-

<sup>19</sup> A. Werth, *Which Way France?* (New York, 1937), p. 336. By permission of Harper and Brothers, publishers.

tion that they will be killed by the Senate. Non-fiscal provisions, moreover, have been known to be inserted by the Chamber into budgetary measures as a means of circumventing senatorial opposition. Certainly no thoughtful person would argue that this is a rational way to make laws.

In so far as the Senate serves a really useful function, it lies chiefly in the calm and deliberate discussion of the broad lines of national policy which it is easier to get from a body of experienced men, enjoying long terms of office, than from the politically surcharged Chamber of Deputies. As a forum for criticism and investigation of administrative action, a considerable case can also be made for the French Senate. It is probable, however, that more effective ways and means of curtailing allegedly hasty and ill-advised legislation could be found by improving the organization and procedure of the Chamber of Deputies itself. With its present powers and composition, the Senate can too easily throw the entire parliamentary system out of gear or into deadlock, not only by completely blocking the enactment of important public policy, but by overthrowing cabinets which possess the confidence of the Chamber.

#### 4. *The Completed Statutory Product.*

When a bill is rejected outright by the second house, it may not, under the rules, be considered again by the original house for a period of three months, except upon the initiative of the Government. This provision, however, is easily circumvented by introducing a new bill which differs in some minor particular from the original measure. The adjustment of differences between the two houses which is necessary when the second house passes a government bill *with amendments*, depends primarily upon the minister in charge of the measure. In former years a mixed conference committee of senators and deputies, comparable to the joint conference committee used in the American Congress, was occasionally set up to work out a basis for agreement. But this procedure has not been employed since 1909. Nowadays it is up to the minister to "commute" with his bill between the Palais du Luxembourg and the Palais Bourbon until satisfactory adjustment is effected—or it is decided to drop the measure. Only those sections of the bill which are in dispute are read on the floor at



this stage. The minister may be obliged to carry his bill from one chamber to the other four or five times before an accord is realized. In order to secure final parliamentary action on the budget, at the end of the fiscal year, the Finance Minister's task of conciliation is more frequently than not an arduous one, continuing perhaps for days and culminating in an all-night sitting by one or both houses.

One copy of the bill as officially adopted by the two chambers is deposited in the archives of the chamber which last voted it. The other copy is sent by the presiding officer of this chamber to the President of the Republic for promulgation. Promulgation consists of the issuance of a decree by which legal effect is given to the action of Parliament. This decree opens with the following formula: "The Senate and the Chamber of Deputies have adopted and the President of the Republic hereby promulgates the law, the text of which follows." At the close appears the statement that "this law will be executed as a law of the State." The decree is dated, signed by the President, and countersigned by one or more ministers.

The Constitution allows the President a month in which to promulgate a law. If, however, the Chambers expressly declare a law to be "urgent," it must be promulgated within three days.<sup>20</sup> Within the time fixed for promulgation, the President may return a bill to Parliament with a "reasoned" request that it be reconsidered. This power of suspensory veto has never been employed by the Chief Executive. The operation of the principle of ministerial responsibility is not consistent with the exercise of a presidential veto. If the President were to "veto" a law, the veto message would have to be countersigned, as well as presented to Parliament, by some minister. Such action on the part of the minister would be equivalent to placing himself in conflict with the will of Parliament and he would have to resign. So, like dissolution, the suspensory veto has become a "useless weapon in the constitutional arsenal" of the French Republic.

One further step remains to be taken after promulgation. Before a law can become legally effective, it must be published; otherwise, the public would not know what it contained. Publication takes place in the *Journal Officiel*, which appears in Paris daily throughout the year. New laws are

<sup>20</sup> Art. 7, Law of 16 July 1875.

brought more directly to the attention of citizens throughout the country by the prefect of each *département* and the mayor of each *commune*. It is the duty of the mayor to see to it that printed copies are posted on an official bulletin board in the town hall.

### 5. *Rule-Making by the Executive.*

The volume of *statutory* enactments which issues from Parliament, although steadily growing in quantity, represents by no means all of the governmental rule-making involved in the refinement of "raw" policy into the orderly processes of administration. In the course of a typical year Parliament may pass between two and three hundred laws, including those of non-official as well as ministerial origin. The record for a single session was probably set during the first ten weeks of the Blum Popular Front régime (4 June-14 August 1936), when as many as sixty-five new laws, most of them of major public importance, were enacted. These totals, however, fall far below the number of bills that are ground out annually by the congressional mill in Washington, despite the fact that the scope of national legislative power is far wider in France than in the United States.

There is still another factor which differentiates the French national legislative product from the American—at any rate until the advent of Mr. Roosevelt's "New Deal." This is the relatively briefer, more concise, and less minutely itemized character of French statutory law. In France, so far as *public* bills are concerned, the typical procedure is for Parliament to lay down fairly general principles of conduct, or to set broad standards of action for administrative agencies to follow, leaving to the latter the task of filling in the details by supplementary regulations. What these two comparisons are meant to convey is the fact that the executive branch of the French government possesses an ordinance power far more extensive in scope than that which has, until recently at least, been available to the American president.

The origins of this vast ordinance power of the French executive are twofold. Historically, it may be traced to the royal prerogative of the *Ancien Régime*. To a limited though not clearly determined extent, the responsible parliamentary executive of the nineteenth century fell heir to the rule-making

power of the absolute monarchs of the preceding century. A more immediate source of the ordinance power is to be found in the provision of the Constitution of 1875 which confers upon the President the duty "of supervising and assuring the execution of the laws."<sup>21</sup> Broadly interpreted, this provision has provided a convenient juridical sanction for continuing a customary practice which revolutionary change could not break.

In the French system executive ordinances bear the legal designation of "decrees." We may distinguish two types of these decrees: (1) the *individual* type, affecting an individual person, such as the appointment, transfer, or dismissal of an administrative officer, and (2) the *regulatory* type, containing a rule or order of general juridical application, such as regulations governing the collection of income taxes, highway traffic, or the organization of an administrative service. In substance, many of these regulatory decrees constitute what may be called "secondary" legislation, though some of them are merely internal administrative regulations. As to form, they must always be signed by the President and countersigned by a minister.

With respect to the way in which regulatory decrees are formulated, several important differences must be noted. For the most part they are issued only upon the express authorization of Parliament. The text of a statute, for example, may stipulate that a decree completing the details of its application must be deliberated "in the Council of Ministers." Almost invariably, in connection with social and economic legislation, Parliament incorporates a special procedural provision requiring the Government to consult the Council of State in preparing the "decrees of public administration" (*règlements d'administration publique*) which determine how the statute is to be applied to this or that situation. Examples of this kind of executive ordinance could be cited by the hundreds. It was employed in working out the application of the celebrated Associations Law of 1901, the social insurance legislation of 1928, and notable Blum labor reforms of 1936.<sup>22</sup> Administra-

<sup>21</sup> Art. 3, Law of 25 Feb. 1875.

<sup>22</sup> For the text of the Forty Hour Week Law, under which this procedure was used by the Ministries of Labor and Public Works in determining when and how the limitation of the work week should be applied to specific industries and trades, cf. the *Source Book*, II-81.

tive discretion is substituted for statutory rigidity in the complex process of adjusting principles to varying regional and economic conditions. Without express parliamentary sanction, the Government may also issue, on its own initiative, such supplementary decrees as are necessary for the effective enforcement of a law. Although in such cases consultation with the Council of State is not obligatory, by custom it usually takes place anyway. All of the foregoing "legislative" decrees invariably cite the statutes and other relevant decrees by virtue of which they are issued or which they affect. A further condition occasionally set by Parliament is the requirement that the Government must present such decrees for parliamentary ratification within a specified period.

Quite apart from any direct connection with specific statutes, the ordinance power of the Executive extends over virtually the entire field of administrative organization, personnel, and police regulation. In 1922 a complete highway code was formulated by the administrative staff of the Ministry of Public Works without any express statutory authorization, while rules for the collection of taxes are continually being made and revised in this "spontaneous" fashion. Internal civil service, consular, and military regulations may be issued in the form of ministerial orders (*arrêtés*) which do not require the signature of the President. None of this "free" administrative discretion may, however, be used to impose taxes or inflict penalties upon citizens.

Still more important is the fact that the exercise of executive ordinance power is always subject to two controls. The first arises from the general political responsibility of the Ministry to Parliament. The second results from the right of the Council of State to review and invalidate any administrative decree which is tainted with illegality (*excès de pouvoir*) or the abuse of authority (*détournement de pouvoir*). "By the force of these twin controls—especially the latter—executive discretion is effectively held within the confines of legality."<sup>23</sup>

#### 6. *Emergency Delegation of Legislative Power.*

The last twenty years have produced an innovation which may possibly bode ill for the future of representative govern-

<sup>23</sup> Sharp, *The French Civil Service*, p. 29. The rôle of the Council of State as an agency of administrative review is discussed in Chap. X.

ment in France. Under the stress of successive national emergencies, Parliament has seen fit to delegate to the Executive *full* power to legislate *by decree* for specified purposes during limited periods of time. The "decree-laws" which flow from such emergency powers are *legislative* in form as well as in substance. This type of executive action may alter existing statutory law and cannot itself be changed except by a formal parliamentary vote *after* the grant of delegated power has expired. Nor are such decree-laws reviewable either by the ordinary or by the administrative courts. During such periods the Government of France becomes in effect a limited constitutional dictatorship. Parliament confesses its own incapacity to cope with the crisis, temporarily "abdicates" to the cabinet, and usually goes home. For the time being executive and legislative power is concentrated in a single branch of the government.

Legislation by decree was first extensively used during the World War, although on a smaller scale examples may be found as early as the Second Empire. Recurring monetary crises since the War have necessitated resort to this extraordinary procedure on six separate occasions. The first was in March 1924, when the Government secured authority (which it never used) to effect by decree budgetary economies amounting to a billion francs and to increase taxes by 20 per cent. Again, in August 1926, when the franc seemed to be headed for disaster, the Poincaré "National Union" Cabinet sought and obtained for five months still wider power to secure administrative economies by decree. Under the terms of this grant, over 100 decrees were issued which abolished and consolidated hundreds of local governmental agencies and considerably decentralized the administration of *départements* and *communes*. Although they went into effect immediately, these decrees had to be submitted to Parliament for ratification within three months. As it turned out, Parliament not only never formally ratified any of them, but subsequently repealed by statute all but a half-dozen under pressure from local vested interests. Eight years later, following the perilous riots of 6 February 1934, the Doumergue cabinet put through a program of fiscal reform after securing a similar grant of authority from a harassed Parliament.

The chronic state of "being in the red" which has since

then characterized French national finance caused the Laval Government to seek a law in June 1935 by virtue of which it might, until the end of the following October, decree virtually any measures deemed appropriate for the purpose of checking speculation and preventing devaluation of the currency. The decrees were to be submitted to Parliament for ratification by the end of the year. Acting upon this sweeping delegation of authority, the Government "manufactured" deflationary decree-laws—there were over 500 in all—by the wholesale during the succeeding summer. The salaries and pensions of State employees were reduced, administrative staffs were curtailed, the interest on government securities was lowered, rents and public utility rates were fixed, motor car insurance was established, and food prices were limited.<sup>24</sup> Laval's high-pressure methods in imposing this drastic deflationary program upon the country provoked the newly organized Popular Front, during the election campaign of 1936, to brand his Government as "reactionary" and "fascistic." One of the first acts of the Blum Government was to ask Parliament to repeal the bulk of the Laval decrees, despite the fact that many of them had just been ratified during the previous session. A few of the Laval measures, however, were accepted by the Popular Front Parliament.

Ironically enough, only a year passed before the Popular Front ministry was itself forced to seek plenary financial powers from Parliament. Although the Chamber passed the Government's bill to this effect, the Senate refused to entrust to a Socialist prime minister any such sweeping authority. Rather than force the issue further, and perhaps glad to be relieved of the responsibility of imposing fiscal measures which would be extremely unpopular with its Socialist and Communist supporters, the Blum Cabinet decided to resign. To the Chautemps Government that succeeded it in office, both houses of Parliament immediately granted the plenary powers which the Senate had insisted upon denying to M. Blum. Under these powers, the second Popular Front ministry, with non-Socialists occupying the key posts of Prime

<sup>24</sup> The texts of the laws of August 1926 and June 1935 delegating emergency fiscal powers are reproduced in the *Source Book*, II-58 ff. For an illuminating treatment of this whole problem, cf. Lindsay Rogers, "Personal Power and Popular Government," *Southern Review*, Autumn, 1937.

Minister and Finance Minister, and M. Blum relegated to the relatively innocuous post of Vice-President of the Council without portfolio, proceeded to issue a new set of decree-laws by which the franc was detached from its gold parity, heavier taxes were levied, and allegedly drastic regulations against tax evasion and speculation were put into effect.

Once again, in April 1938, the continuing financial crisis forced Léon Blum, then heading his second short-lived Government, to ask Parliament for power to decree all measures deemed "indispensable to the needs of national defense, for the protection of the gold reserve of the Bank of France, and for the restoration of the economic and financial situation of the country." Once more the upper house, led by the vindictive Caillaux, dramatically rejected the Socialist Premier's request, only to grant somewhat less sweeping authority to M. Daladier's "National Defense" Cabinet for a period of three and a half months. Acting under this delegated power, Daladier early in May had devaluated the franc still further, raised all national taxes by a flat 8 per cent, modified the application of the Forty-Hour Week Law, and absorbed the "annexed" budgets of government commercial enterprises into the general or ordinary budget of the State.

The fundamental question raised by this extraordinary method of "crisis budget-balancing" is whether in a long-drawn-out emergency it might not lend itself to the designs of a would-be dictator, should he appear on the political horizon. Such a leader, of whom Pierre Laval may have been a prototype, might try to dispense entirely with parliamentary control. Thus far, it is true, the legislature has set fairly definite limits as to duration, objective, and principle in delegating legislative power to the executive, and has retained the right to disapprove *ex post facto* of the way in which it is exercised. These conditions have kept the "transfer" of power within constitutional bounds. So long as popular elections, the free party system, and liberty of discussion are preserved, the danger of dictatorship in France appears to be remote, even though upon occasion Parliament may have to confer sweeping emergency powers upon the Government. Should these indispensable bulwarks of political democracy crumble as a consequence of prolonged foreign war or economic class conflict, the principle of ministerial responsibility to Parliament

might fall before some French brand of fascistic dictatorship. Today it is widely recognized that certain changes in the relationship of Ministry and Parliament must be effected if reasonable stability in the administration of policy is to be secured within the context of responsible democracy. To this perplexing problem of democratic *constitutional* reform we shall return in our final chapter.



## CHAPTER VI

### INSTRUMENTALITIES OF ADMINISTRATION

Administration lies at the heart of the governmental process in the "Great Society." In the simple agricultural community of a century ago such statutory law as was necessary to secure internal order and external defense could be enforced by constables, magistrates, and the military. Nowadays an army of inspectors, engineers, scientists, statisticians, accountants, economists, and professional welfare workers is needed, not so much to compel obedience to coercive rules of law as to "manage" an ever-widening congeries of public services penetrating the national life at a thousand points. The executive branch of a twentieth century government is concerned less with law enforcement in the narrow juristic sense than with the planning and administration of constructive social policy.

So it is that in France the historic "separation of powers" doctrine, which the Constitution of 1875 took over from earlier French organic law, has been undermined by the triple impact upon community life of technology, industrialization, and urbanization. Approaching the problem of contemporary French government behavioristically, rather than in terms of outworn constitutional theory, we find a continuity in the governmental process which makes the appointive administrator—the bureaucrat, if you will—a participant in practically all its operations. It has become part of his job to provide the factual basis for major legislative reforms, mould them into *projets de loi*, prepare executive ordinances and decrees, issue supplementary rules and regulations, set standards, determine the rates to be charged by numerous public and quasi-public services, and make awards to the beneficiaries of social legislation. In substance, much of the French administrator's power is less mandatory than permissive—a power which he may use or not according as his discretion dictates. Conversely,

the people's deputies impinge upon the administrative process at multiple points. They may establish, alter, and abolish administrative agencies; stipulate how much money such agencies may spend and for what purposes; give advice to permanent officials; and, not least, criticize and investigate the multifarious activities of government departments and bureaus.

In reality, no hard and fast line can nowadays be drawn between the *legislative* and the *administrative* function. In France as elsewhere, administration, broadly conceived, provides the thread which inextricably weaves the two functions into a continuous pattern of action. It follows, therefore, that the quality of service which people secure from their government is vitally related to the kind of machinery, personnel, and financial tools that constitute its instrumentalities of administrative management.

Here we are brought to what is not inaccurately called the *real* government of France—the administrative bureaucracy. The historic evolution of this bureaucracy was outlined in Chapter II. What it is and does today remains to be considered. For convenience we may deal with this subject under four heads: (1) departmental organization, (2) inter-departmental coördination, (3) manpower, and (4) budgetary procedure.

### 1. *Departmental Organization.*

There is scarcely any aspect of French institutional life which does not reflect the hierarchical principle. Social values are largely measured in terms of hierarchical status, whether it be in the realm of the church, education, or organized charity; or in the field of industry, organized labor, the liberal professions, or government. An old society like France conforms to a "bureaucratic culture pattern" far more closely than is the case with a newer and less rigidified community like the United States. In addition to the state bureaucracy, which acts "the central coördinator of the traditions of national life," there is in France, so to speak, a cluster of unofficial bureaucracies.

It is in the official administrative structure, however, that hierarchy and centralization find their fullest sway. These twin principles are, as suggested earlier, a heritage of empire.

In every government department established since the French Revolution, the internal set-up has followed a set pattern consecrated by administrative tradition. Geographically considered, internal departmental organization embraces (1) *central* and (2) *exterior* services. Located in Paris, the central services constitute the headquarters staff of the ministry, while the exterior services form its field apparatus. In most departments hierarchical supervision over the work of these field agents is maintained by a corps of inspectors who make investigations on the spot and report back to Paris. The headquarters organization is divided into a varying number of administrative divisions, each headed by a director. These are in turn subdivided into *bureaus*, each being managed by a chief. The bureau serves as the administrative "cell" of the ministry. In many of the larger bureaus one finds a further segmentation into sections, which are presided over by assistant bureau chiefs and manned by clerks and other subordinate personnel.

From the standpoint of what they do, the internal services of a ministerial department may be further classified as *staff* and *line* agencies. The former handle activities of a general housekeeping character, such as the recruitment and control of departmental personnel, budgeting and accounting operations, and the purchase of materials. The line services, on the other hand, are directly concerned with the performance of the functions for which the department exists, such as the collection of taxes (in the Treasury), the administration of public schools and universities (in the Ministry of National Education), diplomatic and consular representation (in the Ministry of Foreign Affairs), or the construction of highways and bridges (in the Ministry of Public Works). Both staff and line agencies in the headquarters organization exercise powers of control over field services that spread their tentacles over the homeland, out to the overseas colonial possessions, or to wherever the French government maintains diplomatic and consular machinery abroad.

The executive departments of the French government are uniformly headed by a single chief—the minister. It is he who stands at the apex of the administrative pyramid. It is his business to direct and coördinate the work of the department. To aid in the performance of this task he has at his disposal a personal secretariat, called the *cabinet du ministre*. This con-

sists of a small staff of secretaries and attachés appointed by and directly responsible to himself. For the greater part its members are promising young men detached from the staffs of the Council of State or the Court of Accounts, although occasionally a minister will bring into his cabinet a personal "protégé" from outside the government service proper—a journalist, for example, an ex-deputy or a university professor. The members of the minister's "cabinet" do not, as such, enjoy permanence of tenure. They are rather in the nature of private secretaries whose relationship with their chief is personal and confidential. When he leaves office, they return to their former posts, if they already belong to the career service; or they may be rewarded by appointment to a lucrative government job for which no formal entrance qualifications are required. Through this method of "taking care" of the minister's political entourage, many a young man, meritoriously or otherwise, has short-circuited his march to a bureau headship or prefecture, much to the resentment of the career civil servants to whom the minister's cabinet has seemed naught but a "nursery for the favored." Measures were taken a generation ago to check this abuse of the merit principle, but they were too mild in effect to eliminate it altogether.

The *cabinet du ministre* serves as an agency of liaison between the bureaus and the political head of the department. It helps him to keep in touch with their work and assembles the material which he needs in arriving at decisions on departmental affairs. At times considerable friction may arise between the minister's personal secretaries and the departmental career officials if the minister is not skilful enough to compel their full coöperation. As a further device for intra-departmental coördination, some ministers follow the practice of holding periodical (weekly) conferences with the small group of high permanent officials—divisional directors and bureau chiefs—who are directly responsible for keeping the wheels of the departmental machinery in proper motion. This procedure is all the more necessary because, except in the Ministry of Foreign Affairs, the P. T. T., and the Treasury, there is no permanent under-secretary, such as one uniformly finds in the central departments of the British Government and has in recent years been emerging in certain of the federal departments at Washington. The nearest approach to

such an official in the *typical* French department is the "under-secretary of State." As has already been suggested, however, this position is not permanent in character; nor is it held by a career official, but by a member of Parliament. In reality, the under-secretary of State serves as sort of assistant minister whose function is to relieve the chief of a portion of the burden of departmental direction. In many cases, these under-secretaryships have been created with a view to strengthening parliamentary support for the cabinet by providing additional administrative posts for the younger party leaders.

Both the total number and the assignment of under-secretaries of State to executive departments are extremely variable. In the Poincaré Government of 1928, for example, there was none. The two Tardieu cabinets (1929-30) that succeeded Poincaré contained twelve and fifteen respectively. Since then, the general tendency has been to swell the ministry with a substantial number of under-secretaries, although some departments are still without them. In certain instances the institution of an under-secretariat is employed to give special recognition to relatively new social services, such as the promotion of scientific research, organized sports, the better use of leisure time, and child welfare. After a time, under-secretariats are now and then elevated to the status of full-fledged ministerial departments. Several of the present ministries originated in this fashion.

In contrast with American federal practice, the French State makes practically no use of independent boards or commissions for regulatory purposes. Instead, the regulation of national public utilities is placed directly under the jurisdiction of a ministerial department, frequently with the aid (as we have already observed) of advisory committees of officials and laymen representing relevant functional interests. The recommendations of the Superior Railways Council, for instance, must be considered by the Minister of Public Works in connection with proposed changes in rates, while the Postal, Telegraph, and Telephone Administration is required by law to consult the departmental advisory council before rates are altered or projects for technical improvements are approved.

During and since the World War a few quasi-autonomous "offices" have been established with a view to according to new administrative activities an independence of departmental

control until it was determined whether they were to be permanent or temporary. Such offices are directed by "high commissioners" who, chosen from the membership of Parliament, occupy the lowest rung of the ministerial ladder. Examples of this type of agency include the High Commissariats for Alsace-Lorraine, for Foreign Commerce, for Aeronautics, and for Tourism. The last two posts were subsequently "graduated" into under-secretaryships.

The internal organization, allocation of personnel, and jurisdiction of the administrative departments are legally determined by cabinet ordinances issued after consultation with the Council of State, subject always to the annual budgetary control which is exercised by Parliament. Until recently, the Government could on its own initiative establish or abolish ministries, under-secretariats, and other major agencies, or transfer functions from one department to another. As a consequence of this wide governmental discretion, the number and functions of administrative agencies multiplied in great profusion during and immediately after the War. In 1920 Parliament displayed its impatience with these developments by passing a law which stipulated that in the future "the establishment of new ministries or under-secretariats, or new posts of secretaries-general or division chiefs in central administrative units, or the transfer of functions from one ministerial department to another, will require formal statutory sanction." In spite of Parliament's desire to tighten the strings of administrative control, this law has been technically disregarded by almost every Government since its passage. When the new Air Ministry was set up in 1928, the two decrees appointing the Minister and fixing the functions of his department went into effect two months before they received retroactive statutory ratification. At the time Premier Poincaré "challenged the constitutionality of the law by pointing out that Parliament had no right to limit in advance the presidential prerogative of appointment and dismissal; for, after all, he argued, the Chamber would always have the 'last word' about the cabinet anyway, since it could turn the Government out any time it wished."<sup>1</sup> By decree the Tardieu cabinet of 1931 consolidated the three Ministries of War, Navy, and Air into a single Ministry of National Defense.

<sup>1</sup> Sharp, *op. cit.*, p. 31.

The next year Premier Herriot's government proceeded to reestablish the former departments by the same procedure. The fact is that parliamentary control *a priori* has proved impracticable. So far as the structural lines of the national administrative set-up are concerned, control by the legislature remains essentially *ex post facto*. Incoming cabinets may still vary the number and functions of administrative agencies for essentially political reasons.

Considering the fact that administrative machinery has evolved in terms of the expediency of the moment, one would not expect the distribution of functions among its various parts to be wholly logical. Not unlike the situation at Washington or London, the French national administrative structure is marked by the scattering of certain closely related activities among several departments and the presence within a given ministry of functions which do not rationally belong there. For example, the handling of immigration problems is spread through five different ministries, to wit: (1) Labor—as regards employment, health, and sanitation; (2) Agriculture—for the recruitment of immigrant farm labor; (3) Foreign Affairs—for the negotiation of immigration treaties; (4) Interior—for policing; and (5) Justice—for naturalization. Until quite recently the management of prisons was under the jurisdiction of the Ministry of Interior rather than the Ministry of Justice, where it properly belonged. Until 1930, moreover, the scattering of the services of public hygiene through six different agencies accounted in large measure for the backwardness of France in this vitally important social domain. This situation has now been largely remedied by the establishment of an independent Ministry of Health. A further example of diffusion is found in the field of public works, where the maintenance of certain local highways rests with the Ministry of the Interior, the construction of fortifications with the War and Navy Departments, hydraulic development with Agriculture, and other engineering activities with the Public Works Ministry. Perhaps the most amusing instance of "water-tight compartmentalism" at Paris is the arrangement by which the inside of the windows of the Ministry of Finance is cleaned by its own employees, while the outside is washed by the Division of Fine Arts in the Ministry of Education, because the Ministry of Finance happens to occupy a

part of the building which houses the Louvre art museum. When Parliament investigated the Stavisky scandal in 1934, one of the most amazing revelations was the way in which the Minister of Labor tried to "alibi" his responsibility in the affair by claiming that the control of municipal pawnbroking establishments rested as much with his ministerial colleague in Commerce as with himself.

If one asks why there should not be a general regrouping of services in the interest of simplicity and economy, the same reply may be made for the French as for the American federal system. Bureaucratic inertia, traditionalism, vested interests, and a lack of executive courage have operated in both countries to delay the execution of any thorough-going plan of administrative rationalization. Witness the failure of one American President after another—Taft, Harding, Coolidge, Hoover, and F. D. Roosevelt (at any rate through the 1938 session of Congress)—to accomplish any general redistribution and consolidation of federal agencies. In France the problem of re-organization is further complicated by the factor of ministerial instability. On the part of the collective cabinet, above all of the Prime Minister, there must be both the will and the intelligence to prepare and put through a general re-organization program. But even when these pre-requisites are present, the cabinet rarely stays in office long enough to pass the first signpost. Most of its limited time, moreover, must be spent in cultivating good terms with Parliament. So improvement can come—and under such courageous leaders as Poincaré and Léon Blum it has been considerable—only by piecemeal change.

Nevertheless, the turnover of ministers is less rapid than the turnover of cabinets. Due to the absence of electoral land-slides and the nature of the coalition system, there is never a clean sweep of cabinet ministers. A statistical analysis of ministerial succession during the Third Republic reveals numerous instances where individual ministers have held the same portfolio through the lifetime of several cabinets. This was notably true of M. Briand, who presided over the Quai d'Orsay continuously from 1925 until 1932, a period during which a dozen different cabinets succeeded one another. In all, Briand held ministerial office over ten years—eleven times as premier and twenty as ordinary minister. Laval was a mem-



ber of thirteen cabinets and the head of three. Poincaré served as premier for over seven years, although not continuously. A notable earlier example of ministerial longevity was Delcassé's uninterrupted tenure of the Foreign Office from 1897 to 1905. The direction of the War and Navy departments has been marked by almost as great a stability as the Foreign Office. "By taking all the cabinets from 1871 to 1930 we find that of a total of 1026 cabinet positions, 482, or almost half, were held by sixty individuals serving from five to twenty times."<sup>2</sup>

In perhaps one case out of two, a minister, upon assuming the portfolio of a given department, will have had previous experience in the same or some other department. At least in a general way he will be acquainted with the internal set-up and procedures of the department and oftentimes know personally its principal permanent officials. The "dance of portfolios" affects most adversely the direction of those ministries of lesser political import, such as Agriculture, Commerce, Labor, the P. T. T., and Pensions. It is, unfortunately, these technical fields where a greater continuity in national policy-direction is particularly desirable.

## 2. *Inter-departmental Coördination and Direction.*

The over-all coördination of administrative activity is supposed to be supplied by the collective cabinet under the leadership of the President of the Council. Occurring as frequently as two or three times a week, its meetings constitute the official medium for discussion and decision as regards the general lines of administrative policy. All decrees giving legal effect to major appointments and assignments of administrative personnel are "deliberated" in cabinet council. Yet, as was suggested in an earlier chapter, the cabinet is of decidedly limited value as an agency of inter-departmental integration. With a membership ranging from fifteen to thirty persons, it is too large to deal effectively with day-to-day problems of administration. Many of these problems, moreover, concern not the whole cabinet, but merely two or three ministers. Finally, the cabinet tends to be so preoccupied with matters of political strategy, relating to the progress of its legislative

<sup>2</sup> C. J. Friedrich, *Constitutional Government and Politics* (New York, 1937), p. 348. By permission of Harper and Brothers, publishers.

and budgetary program, that there is little disposition to give sustained thought to how the administrative bureaucracy, for which the cabinet is politically responsible, is doing its job.

These shortcomings of the French cabinet as an administrative steering committee are in part a consequence of the weak position of the Prime Minister. The reasons for this have already been suggested. Without being the leader of a stable and cohesive parliamentary majority, he cannot and does not dominate his colleagues in anything like the degree that the British Prime Minister rules 10 Downing Street. The French Premier receives the same salary as his ministerial associates. Until 1934, moreover, he had no office space at his disposal except that which was provided by the department over which he happened to preside. His secretarial assistance was likewise confined to the personal "cabinet" to which he was entitled as department head. Only in this latter capacity could he distribute favors, confer honors, or bestow appointments. Political expediency decreed that he should usually assume the direction of one or the other of two ministries—Foreign Affairs or the Interior—depending upon whether foreign policy or domestic politics seemed the more important at the moment, with the result that he tended to become engrossed in the time-exacting demands of foreign diplomacy or domestic electoral considerations, and was not infrequently absent from the country attending international conferences.<sup>3</sup> In this setting the President of the Council could be little more than a political "chairman" of the cabinet. He had little or no time to reflect, hours at a time, upon the fundamental problems of government. For a conscientious premier, the triple burden of appearing before two sets of parliamentary committees and the two legislative chambers, of attempting to direct the cabinet, and of running a department, was crush-

<sup>3</sup>The tabulation given below shows the allocation of departmental portfolios held by French prime ministers from 1871 to April 1933:

Foreign Affairs . . . . .	34	Public Instruction . . . . .	3
Interior . . . . .	31	Colonies . . . . .	2
Justice . . . . .	11	Commerce . . . . .	1
War . . . . .	8	Agriculture . . . . .	1
Finance . . . . .	4	Navy . . . . .	1

\*In addition, there were six prime ministers without portfolio—all since 1914.

ing. More often than not, such pressure as he could exert upon the other ministers was confined to the threat either of resigning or of carrying the issue before the Chamber of Deputies. The latter, however, was not a step that could be employed as a normal administrative procedure, but rather as a last resort.

Since the World War, the chronic *crises d'autorité* which have harassed one prime minister after another have given rise to repeated demands that his position both as political chief and general administrative manager should be strengthened. As we have already noted, one consequence of this current of opinion has been the advent of prime ministers without portfolio. Beginning with M. Doumergue, four of the seven prime ministers who held office from 1934 through 1937 resisted the temptation to administer a department. But in itself this was not enough. In his capacity as head of the Government, the Prime Minister badly needed an auxiliary headquarters establishment and a secretarial staff of his own if he was to function effectively as "motor" for the administrative machine.

After prolonged debate, a permanent headquarters for the Prime Minister's office was authorized by law late in 1934. For this purpose, Parliament appropriated money to purchase and equip the Hôtel Matignon, formerly the embassy of the Austro-Hungarian Empire. Located in the center of Paris and looking out on a spacious garden, this edifice now houses the Prime Minister and his entourage. It provides connecting offices for himself and his administrative secretariat, a suitable room for cabinet meetings, and appropriate *salons de réception*. A physical symbol of the Premier's enhanced status, this "Presidency of the Council" (as it is now officially called) bids fair to establish a tradition that the French Prime Minister shall always be *without portfolio*.

The action cited above also provided a statutory sanction for the Prime Minister's secretariat, whose vicissitudes since its inception by decree in 1917 had prevented it from attaining any real stability. Unknown prior to the World War, this institution emerged as a war-time necessity under Premier Ribot and was retained with some modification by his successors, Painlevé and Clemenceau. For reasons of dubious economy, it was reduced to a small stenographic force under the

reactionary *Bloc National* cabinets that governed France until 1924. Under the subsequent liberal premiers, MM. Herriot and Painlevé, the post of Secretary-General to the Presidency of the Council was recognized by law; but the office staff remained woefully inadequate. With the return of Poincaré in 1926, budgetary contraction led to the abolition of the cabinet secretariat and the transfer of a part of its clerical staff to the "cabinet" of the Ministry of Finance, whose portfolio Poincaré held. Eight years passed without any attempt to put the premier's secretariat on a permanent basis. In the wake of the national crisis of February 1934, M. Doumergue revived the question by making it one item in his abortive program of "constitutional reform." After Doumergue's departure, his successor, Premier Flandin, induced Parliament to incorporate in the national budget for 1935 an article which read in part as follows: "The minister in charge of the Presidency of the Council shall have under his direction the administrative services of the Presidency of the Council."<sup>4</sup> This law left to the Government the task of determining in detail the set-up of these "administrative services." This was accomplished by an organic decree issued a month later.<sup>5</sup>

As organized by this decree, the Premier's secretariat includes two categories of personnel. There is a permanent bureau staff, which consists of a chief, an assistant chief, two senior clerks, and a small number of bookkeepers, stenographers, and doormen. There is also a "non-permanent" personnel, consisting of not to exceed fifteen (later increased to twenty-five) junior officials "detached" from their respective ministries for the term of office of a given Prime Minister. One of these career officials (*chargés de mission*) is designated as Secretary-General of the Administrative Services of the Presidency of the Council and as such has general charge of the work of his associates under the Prime Minister's personal direction. If he wishes, the Prime Minister may select some of these *chargés de mission* from qualified persons outside the government service. Although M. Flandin did not make use of this provision of the law, Premier Blum later appointed three journalists, two ex-deputies, and a university instructor to his staff.

<sup>4</sup> Art. 23, Finance Act of 24 Dec. 1934.

<sup>5</sup> The text of this decree is reproduced in the *Source Book*, II-91.

The rôle of the permanent bureau is first and foremost to provide the head of the Government with a constantly up-to-date documentation concerning the legislative work of Parliament. In addition, the bureau handles his voluminous correspondence and takes care of office filing and the library of the secretariat. The function of the *chargés de mission* is of a much more delicate character. Selected by the Prime Minister because he has confidence in their ability and integrity and finds them personally sympathetic, they serve, so to speak, as his executive assistants. Some of them will have been "masters of requests" on the Council of State, or young magistrates; others, Treasury or labor law inspectors; still others, "controllers of the Army or Navy," or chief engineers on public works projects or in some State industrial establishments. During their assignment to the Prime Minister's office, they collectively constitute an administrative "general staff." It is their task to maintain liaison with the various ministries and to free their chief of as much administrative routine as possible. Individual executive assistants may be assigned to study a particular set of problems, such as national defense, current diplomatic negotiations, agriculture, or social insurance, and prepare memoranda thereon for the Prime Minister's use. Questions presented by deputies or senators to individual ministers and later referred to the Prime Minister are first examined by one of his assistants. If the matter can be satisfactorily adjusted by a conference between the assistant and the appropriate minister, the Prime Minister may not have to give it his personal attention at all. In any event, prior consideration of the problem by an assistant means that less of his chief's time need be consumed in seeking a solution.<sup>6</sup>

In addition to placing a Secretary-General immediately in charge of the Premier's office staff, it has also been the practice in recent years to assign a parliamentary under-secretary of State to the Presidency of the Council. In 1936 Premier Blum appointed two such under-secretaries. The rôle of the

<sup>6</sup> Students of comparative administration will be impressed by the striking similarity between the rôle of this executive staff of the French Prime Minister and the proposed rôle of the six executive assistants, "possessed of high competence, great physical vigor, and a passion for anonymity," which the President's Committee on Administrative Management recommended as an addition to the White House staff in Washington. Cf. the *Report of the Committee* (Washington, 1937), pp. 5-6.

under-secretary is to act as a *political* aid to the Prime Minister—to serve as a buffer between the head of the Government and the public. The under-secretary handles as many of the individuals and delegations seeking interviews as can be appeased without seeing the chief in person. The under-secretary has also become *de facto* secretary of the cabinet. With the aid of material assembled by the Premier's staff, he now prepares the agenda for cabinet meetings and makes skeleton notes on their deliberations. These notes form the basis for press communiques, instructions to ministers, and are, of course, of considerable value to the Prime Minister himself. Political tradition, however, has thus far prevented the keeping of any systematic minutes of cabinet discussions and their subsequent transmission to the members. With a view to eliminating misunderstandings among the ministers as to exactly what the cabinet did decide to do, the adoption of this further step is greatly to be desired.

The Law of 1934 grouped under the immediate direction of the Prime Minister several other agencies, some of which had hitherto been nominally attached to ministerial departments. These agencies are the following:

- the National Economic Council,
- the General Statistical Service,
- the Secretariat of the Superior Council of National Defense,
- the National Labor Supply Council, and
- the Direction of the Alsace-Lorraine Service.

The budgets of these agencies are now incorporated into the general budget of the Presidency of the Council. This arrangement is likely to result in more adequate appropriations for their work and is at the same time a recognition of the emerging importance of general planning in French national administration. Whether the full potentialities of placing the central statistical service and the National Economic Council directly under the authority of the political head of the Government are realized, will depend, to be sure, upon the vision, courage, and stability of the cabinet leadership developed by the parliamentary régime during the coming years.

Independently of the expansion of the Prime Minister's office, *ad hoc* inter-departmental committees have long been utilized in great profusion as devices for administrative coö-

dination and investigation. In recent years, for example, such committees have been set up to report on the services of unemployment relief, the work of those departments which administer policies designed to promote national economic recovery, and the improvement of the national defense establishment. A succession of bi-partite committees, composed equally of representatives of departmental managerial personnel and subordinate staffs, was created during the first post-War decade to work out a reclassification of duties and salary scales for the national civil service. A similar commission, constituted by decree of the Presidency of the Council under M. Blum, is now engaged in preparing recommendations for a whole series of changes in the status and management of administrative personnel. Premier Blum's fertile mind was also behind the establishment, in October 1936, of an inter-departmental commission to "coördinate the work of all ministerial services tending to exert action on the relations between France and foreign countries and on the diffusion of French thought."<sup>7</sup> Without being openly propagandist in intent, this action, it was hoped, would integrate more effectively the press section of the Quai d'Orsay, the National Office of Universities, the High Commissariat for Tourism, and direction of French welfare work abroad.

Putting into practice certain ideas on governmental reorganization which he had himself advanced many years earlier,<sup>8</sup> Léon Blum made a still more significant contribution to the problem of inter-departmental coördination. This was to group together those departments handling related functions and place over them a "super-coördinating" minister. There were six of these functional divisions: national defense, general administration, foreign and colonial affairs, finances and state debt, national economy, and social solidarity. Thus the Minister of National Defense was charged with correlating the three branches of the military establishment—army, navy, and air force; and a new Ministry of National Economy was created for the purpose of integrating the pol-

<sup>7</sup> *Journal Officiel*, 17 Oct. 1936. In his second Government Blum created a Ministry of Propaganda (March 1938), but it was discontinued by his successor three weeks later.

<sup>8</sup> In a brilliant essay published anonymously in 1919 and re-published under Blum's own name as *La Réforme gouvernementale* (Paris 1936), after he became Prime Minister.

icies and procedures of the ministries of Public Works, Commerce, Agriculture, P. T. T., and Merchant Marine. It was made the function of this new agency to carry on continuous studies of population, labor supply, industrial production, and consumption, and to prepare legislative projects pertinent thereto for consideration by the cabinet. In addition, general supervision over the National Economic Council was delegated by the Premier to his Minister of National Economy. It is to be regretted that the exigencies of national finance forced M. Blum out of office before there was time fully to consolidate administrative reforms of so much promise.

### 3. *The Manpower of the Bureaucracy.*

Notwithstanding the developments outlined in the preceding section, the auxiliary administrative instrumentalities now geared in with the French Prime Minister's office do not directly touch either personnel management or budgetary operations. There is in France no extra-departmental agency, such as a civil service commission, concerned with the recruitment of career personnel, nor anything comparable to the Bureau of the Budget at Washington. What is more, the French Ministry of Finance lacks the powers of general supervision over the civil service which have long characterized the British Treasury. One finds in the French Treasury no official analogous to "the head of the civil service" in Britain. How has the failure to develop adequate extra-departmental agencies of personnel and budgetary management affected the handling of these two vital administrative problems?

As regards the former, the lack of a centralized agency of control is in part due to the absence of any general statute (like the Pendleton Act of 1883 in the United States) which lays down rules for recruiting, paying, promoting, retiring, and disciplining government employees. For nearly a century repeated efforts to enact such a statutory code have been made, but none has as yet come to fruition. This observation suggests a second factor that has helped to block the creation of an independent personnel agency, namely, the peculiar nature of patronage practices which stubbornly resisted reform until near the close of the nineteenth century.

While this administrative patronage was not, in the Amer-



ican sense, a partisan "spoils system," its ramifications nonetheless honeycombed the executive departments with an insidious species of favoritism demoralizing in its effects. To be sure, wholesale removals of administrative employees did not occur with every swing of the electoral pendulum or change of cabinet. The volatility of "coalition" politics made that administratively impossible. But favors in the form of public jobs were constantly being granted to individual deputies and senators by ministers and prefects as a reward of faithful support in Parliament or at the polls. Paradoxically enough, it was this procedure that permitted the strangle-hold of the aristocracy and church on the great State departments to be gradually broken during the first generation of the Third Republic's life. Not until after the Dreyfus Affair and the separation of Church and State did the administrative personnel of the present régime become genuinely republican in its sympathies, and even today, as was noted in Chapter II, there are certain branches of the Government which still form quasi-preserves for the "pseudo-democratic" descendants of the privileged groups of the monarchical and the Napoleonic periods.

Spasmodic parliamentary intervention, however, was no way to establish a true merit system in public administration. Thousands of competent employees whose loyalty to the Republic was unquestioned found themselves the victims of parliamentary intrigue and ministerial bias because, legally, permanence of tenure had not yet been adequately guaranteed. It was not uncommon for government offices to be invaded by protégés of influential political personages, regardless of whether such appointees were properly qualified. Against this intolerable situation the rank and file of the civil service eventually revolted. The form this revolt took was the organization of staff associations, or *syndicats*, by which the employees could bring concerted pressure upon Parliament for legislation to protect the civil service. As the nineteenth century drew to a close, the insistence of these militant staff groups for legal guarantees grew in intensity. Every time, however, that a specific proposal would be submitted to the legislature, the Government's desire to curtail "trade-union" activity among its employees created an impasse and no agreement acceptable alike to the Government and the staff *syndicats* could be

reached. The latter wanted legal recognition of the right to affiliate with organized labor in the industrial world. The Government, justifiably fearful that to grant this right might be equivalent to recognizing the legitimacy of "strikes" by civil servants, would not approve any such law. In reality, the struggle became a test of "authoritarianism" *versus* "syndicalism." Dormant most of the time, this struggle breaks out anew whenever a Government of strong conservative leanings, such as that of Doumergue in 1934, dares to sponsor a bill outlawing "the strike." The right to unionize, in affiliation with the C. G. T., has gained *de facto*, if not yet *de jure*, recognition. There is now a bill before Parliament to grant the latter.

Notwithstanding this strained situation, the merit principle has triumphed along an indirect route. Legislation dealing with specific phases of personnel administration or special categories of employees has been enacted. Such legislation provides for retirement pensions, guarantees security of tenure for public school teachers and university professors, and gives every civil servant threatened with disciplinary action the right to examine the documents in his service *dossier*. Since the World War Parliament has also enacted a series of statutory rules which guarantee a merit system of employment in local government (*départements* and *communes*). For the central government, however, protection from official favoritism and the development of competitive recruitment procedures have been attained, department by department, through the use of the ordinance power. Civil servants always have the right to appeal to the Council of State against violations of personnel regulations. Such a solid wall of "personnel guarantees" has been built up by this process that the patronage area is today narrowed down to a small group of administrative officers at the top of the departmental hierarchy—ambassadors, colonial governors, prefects, and some, but not all, division heads. In actual fact, most of these high posts are filled, not by politicians, but by career officials and university professors on leave. Politics still influences promotion and assignment in certain government agencies, but it may fairly be said that "talent is now the master key to a successful career in the French public service." Today the central problem of French personnel management is how to provide more effective incen-

tives to creative effort for career officials and more adequate sanctions against employee indifference and stagnation.

The control of personnel is scattered through more than thirty different "bureaus" or "offices." At least one such bureau is to be found in every ministerial department, while in the Treasury, the Ministry of Education, and one or two others, there are several. In some cases the personnel office forms part of a larger administrative unit embracing the handling of accounts and/or the purchase of materials. It is the task of the personnel bureau, as determined by ministerial order, to formulate entrance examination procedures, to make certifications for appointment, to keep service records on all employees under its jurisdiction, to help prepare promotion lists, to recommend what action shall be taken upon employee requests for transfer or re-instatement, to prepare departmental payrolls for submission to the Treasury, and to administer sick leaves, vacations, and accident compensation. For the most part, departmental rules and regulations governing personnel are the result of joint negotiations between managerial officials and delegates of staff associations. Despite the fact that each department makes its own rules, subject to cabinet approval, regulations for comparable groups of employees tend to follow a common pattern. This has come about because employee syndicalism, organized mainly on a "craft" or "occupational" basis, has sought uniform employment conditions for similar groups in all units of the public service.

The last generation has witnessed the gradual adoption of competitive examinations in recruiting manpower for the permanent bureaucracy. "Broadly speaking," as I have elsewhere written, these "entrance examinations may be classified in four fairly distinct categories: (1) the *general-culture, quasi-theoretical type of test*, used to select the occupants of senior and junior administrative and executive posts; (2) the *informational test of a quasi-practical character*, employed in the recruitment of minor executive and clerical personnel, including the field staff of the customs and internal revenue services; (3) the *practical trade or performance test*, frequently qualifying rather than competitive in character, by which manipulative, mechanical, and custodial workers are selected; and (4) the *limited special competition*, non-assembled in form and combining in various ways the appraisal of professional

credentials, formal testing, and informal interviewing, which governs the recruitment of scientific and professional personnel."<sup>9</sup>

This examination system is geared in with the public educational system by setting entrance requirements so as to correspond with the completion of a defined stage of formal training at the elementary, secondary, or higher level. The French public service has long been proud of the high intellectual standards which are maintained by this system of recruitment. For what corresponds to the "administrative class" in the British service, the entrance examinations are made so difficult that only the "cream" of oncoming university graduates can hope to pass them. Oral interviews supplement rigorous written tests for the purpose of evaluating such personal characteristics (manners, poise, facility of expression, etc.) as are considered important to a successful career in the Foreign Service, on the Council of State, in the departmental inspectorates, or as divisional directors. The background training which the typical junior administrative officer must have when he enters upon such a career comprehends not only a thorough grounding in the principles of private and public law, but extensive work in general economics and one or more of the following subjects: comparative government, public finance, industrial or colonial legislation, international relations, and statistical methods.<sup>10</sup> The State, moreover, operates a number of special training schools for the public service. The most notable of these institutions are the *Ecole libre des Sciences politiques*, which prepares mainly for the foreign and fiscal services and the Council of State; the *Ecole polytechnique*, recognized as one of the finest engineering schools in the world; the *Ecole des Chartes*, which trains librarians and archivists; the *Ecole des Langues orientales*, to which many foreign governments send young foreign service officers for

<sup>9</sup> Cf. "Public Personnel Management in France," in *Civil Service Abroad* (New York, 1935), p. 115. By permission of the McGraw-Hill Book Co., publishers. Specimen questions from the written entrance tests used in the Foreign Service are given in the author's treatise on *The French Civil Service*, p. 145; tests for junior Treasury clerkships, in the *Source Book* previously cited, II-95.

<sup>10</sup> In France this training is all provided in the Faculties of Law. Incidentally, as will be noted later, candidates are required to secure substantially the same broad social science preparation before they may compete for appointment to the judiciary.

instruction in the non-European languages; the *Ecole nationale de la France d'Outre-Mer*, which trains future administrators for the French colonial empire; the naval and military schools, which prepare officers; and the State normal schools, renowned the world over for the intellectually distinguished corps of secondary school teachers that they have given to France. There is now under way a plan for the establishment of a training school for "general administration."

It may fairly be claimed that the upper grades of the State bureaucracy are manned by "an aristocracy of brains." Until a generation ago this group constituted a social aristocracy as well. Educational opportunity, however, has been so broadened out by the establishment of a system of university scholarships providing free board and lodging that the more promising sons of shopkeepers, peasants, and factory workers may now aspire to administrative careers. Once they are admitted to the public service, these young men have professionally the same chance to advance as the economically more favored sons of the wealthy bourgeoisie or landed gentry, and as public functionaries both groups occupy substantially the same social plane. Nevertheless, bourgeois traditions are still prevalent in the diplomatic service, where family and social connections are emphasized, as well as in financial administration, the judiciary, the university faculties, and the professional military class, though even here the trend is slowly toward a more democratic recruitment.

Throughout the nineteenth century the drawing power of the French public service was sufficient to attract an ample quota of ability into its fold. So highly esteemed were careers in the army, the magistracy, diplomacy, and the central government offices that virtually every bourgeois family throughout the land looked forward to placing at least one of its sons in the service of the State. But as France became industrialized and increasing opportunities for lucrative employment in the business world appeared, the prestige value of government employment tended to decline. This phenomenon first became noticeable during the years just before the World War. The post-War period, at any rate until the world economic depression partially shifted back the balance, produced an actual scarcity of candidates for many important civil service competitions, and an alarming number of technical and managerial

officials were lured away by offers of high salary into business enterprise, journalism, and banking. What has happened is that the State services must now compete in the open market with private industry for their quota of talent. There are signs that unless the State alters certain of its personnel policies, the quality of its executive civil service will permanently suffer.

First and foremost, as an obstacle to attracting and keeping high-grade men, is the low scale of compensation received by the higher officials. The reasons why the French State is a niggardly paymaster go back to the time when public employment was looked upon as an "honorary" service. In those days—as late as the middle of the nineteenth century—most government officials hailed from the *rentier* class and had private incomes. This is no longer true. While official salary scales have been adjusted upward from time to time, their purchasing power has scarcely kept pace with that of industrial wages and salaries. What is more, the governmental pay revisions necessitated since the War because of monetary inflation have been degressive in their impact, the percentage of increase diminishing as the administrative hierarchy is ascended. In the "emergency waivers" imposed since 1933, the same principle has been followed, the rate of cut being graduated upward. Again, when the Blum Government moved to restore salaries in the spring of 1937, the restoration was made complete for all employees earning less than 30,000 francs a year and only partial for those above that level.

Since 1931 the base pay for the national service has ranged from 9,000 to 180,000 francs a year. Only thirty-three officials—consisting of ministers, ambassadors, secretaries-general, and a few judges and prefects—receive more than 125,000 francs, equivalent to about \$5000; while 90 per cent of the 500,000 employees on the payroll of the central government get as little as 25,000 francs (\$1000) or less annually.<sup>11</sup> In comparing this range with that which obtains in the American federal service, the much lower per capita income of the French people must, of course, be taken into account. But even in relation to the range of income inside France, govern-

<sup>11</sup> From a tabulation by the Minister of the Budget published in the *Journal Officiel*, 17 Sept. 1933. Ambassadors and heads of legations abroad, however, are remunerated on a "gold" basis, which means that they get some multiple of their base salary as calculated in paper francs.

ment pay scales, except for clerical and mechanical work, are admittedly too low. Staff pressure, plus the "economic equality complex" which tends to dominate the French masses, militates against adequate salary levels for middle-grade and top-ranking government officials. The current tendency is to flatten down rather than to elevate the upper brackets in the official salary system.

In determining aggregate compensation to individual employees, the system does, however, take some account of differentials in family obligations and variations in living costs. Supplementary family allowances, which increase by a specified sum for each child or other dependent, have since 1919 been a permanent feature of the compensation plan. Cost of living bonuses, varying with the size of the town where employees are stationed, have also been instituted since the World War. Here, again, the advantage lies with the lower-paid groups, since the bonus is a fixed sum regardless of basic pay scales. Agitation in employee circles for a movable cost-of-living coefficient which would follow the index of retail prices has been resisted by the French Treasury on the ground that in a period of rapid change it would throw budgetary calculations out of gear.

Regardless of the scale of monetary compensation, methods of awarding salary increases and promotions in rank are not such as to afford marked incentive to employees of outstanding capacity. Within each grade, advances in salary up to a fixed maximum are granted quasi-automatically by a system of periodic increments. While, theoretically, the power to confer promotions in rank is discretionary with the appointing authorities, departmental regulations have delegated the exercise of this power to promotion boards, on which the staff is represented. These boards are prone to give to seniority, rather than to individual merit, the chief weight in selecting employees for promotion—at any rate until the highest ranks are reached. The inauguration of individual service-ratings in most departments has not appreciably offset this tendency, for few rating officers have the courage to make distinctions among their "good" subordinates. Rarely are brilliant juniors permitted to jump promotion hurdles out of turn. Promotion for all is fairly sure but seldom rapid. The area of promotion is further restricted by the reluctance of departmental heads

to permit inter-unit transfers of personnel. This reluctance is a by-product of the chronic protests of staff associations against a traditional proneness to accord to personal protégés of ministers and parliamentarians disguised promotions by way of inter-departmental transfers. In one respect, however, the area of promotion is being broadened out. During recent years a freer movement of personnel from central to field services and vice versa has been taking place. In the large field organizations of the post office, the revenue service, public education, public works, and the interior department, the territorial lines of promotion are as broad as the country itself. An employee, for example, may start his career as a postal clerk in a rural village in the South of France, and, by successive transfers and promotions, find himself postmaster of a large city in the North before he retires. Similarly may it happen with prefects and tax collectors, government engineers, *lycée* and university teachers.

On the other hand, staff turnover, except when a service is undergoing rapid expansion, tends to be extremely slow, and this operates to retard advancement in rank for career officials. Dismissals for incompetence are difficult because of the highly cumbersome procedure, involving a hearing before a departmental disciplinary council, which must be observed in all such cases. This is another of the unfortunate consequences of the structure of employee protection against unjust and arbitrary treatment which has been erected at the insistence of the "syndicalist" rank and file. Normally, all employees, the indifferent along with the efficient, are assured of permanent tenure until they reach the age of retirement set by law. This varies from fifty-five to sixty-six years, depending upon whether the work is physically strenuous or sedentary, except for the magistracy, where the retirement age ranges from sixty-five to seventy years. Employees can not be forced to retire at an earlier age unless budgetary contraction of personnel or the abolition of a service makes such action necessary.<sup>12</sup>

<sup>12</sup> Accelerated retirement was one means by which the Doumergue emergency reductions were effected in 1934. The Blum Government forced through a law (dated 19 Aug. 1934) which lowered the retirement age from various employee groups so that promotions and recruitment at the base might be speeded up, with a view to relieving the labor market somewhat.



All national government employees (except manual laborers, who are covered by other legislation) are the beneficiaries of a statutory system of retirement and disability pensions. These pensions are of the contributory type, six per cent of the employee's annual pay being put into a reserve fund which the State itself further subsidizes as needed. The amount of the pension is calculated by taking as the minimum one-half of the employee's salary during his last three years of service and increasing it in proportion to the number of years he has served beyond the optional retirement age. If he has reared as many as three children up to the age of sixteen, his retirement annuity is increased by ten per cent, with five per cent for each additional child.

Opportunity is here lacking for an extended discussion of other phases of French personnel management, interesting as some of them are. Suffice it to say that staff participation in the making of departmental employment policies has been widely developed by means of bi-partite committees representing management and subordinate employees,—a procedure which has markedly improved staff morale and diminished internal friction in many administrative units. In conjunction with the wider syndicalist movement for improved standards, these committees have here and there injected modernized office methods into the administrative picture, formulated schemes for departmental re-organization (especially in the P. T. T. and the Treasury), and done something toward ridding French bureaucracy of its only too well deserved reputation for undue red tape, dilatoriness, formalism, and officiousness in dealing with its public. This bureaucratic psychosis—a vestige of by-gone days when the State services formed a closed caste—is too deeply rooted to be eliminated over night.

In technical operating efficiency French national administration does not compare too favorably with British or German administration, nor with the better-managed agencies of the American federal government. The fact is that the French people are rather indifferent to efficiency as such, whether it be in business or in government. Except when a national crisis compels them hurriedly to energize the governmental machine (for the time being!), they are content to let it move along in low gear. With Jacques Bonhomme honesty

and fairness to the "little man" are administrative virtues which seem to take precedence over large-scale efficiency. By and large, his State bureaucracy is honestly run. For the most part its abuses are petty, though it has produced a few full-blown scandals, of which the famous Stavisky affair of 1933-34 is the most recent example. While parliamentary investigation of the latter scandal revealed the presence of accomplices of this fantastic swindler in the police division of the Ministry of the Interior, no evidences of outright corruption in other branches of the national administration were unearthed. The use of antiquated methods of handling documents and complaints, a lack of coordination between bureaus, and too great a willingness to do favors for "friends" were much more to blame for what happened than any personal dishonesty on the part of government officials.

Whatever its faults and virtues—and it has both in goodly measure—the administrative bureaucracy constitutes a force of major sociological importance in French national life. Since the days of the Second Empire its numerical size has increased almost 300 per cent, that is, from 200,000 to nearly 800,000 persons in seventy years, during which period the total population has grown but sixteen per cent. In 1933 national government employees were distributed by type of work as follows:<sup>13</sup>

<i>Type of Work</i>	<i>Number of Employees</i>	<i>Percentage of Total</i>
Postal, Telegraph and Telephone Administration	192,000	24
State railway and other industrial enterprises	158,000	20
Education, health and welfare services	170,000	22
All other services (fiscal, judiciary, statistical, diplomatic, etc.)	265,000	34
Total	785,000	100

If the 300,000 employees of local governmental units are added to this figure, the grand total of full-time public employees approximates 1,100,000. Although budgetary eco-

<sup>13</sup> Taken from the report accompanying the budget for 1933, reproduced in *Le Temps*, 20 Feb. 1933. Over half of the total have their geographic origins south of the Loire—perhaps because the southerners, with their quick-wittedness, are more gifted for examinations than the less Latinized northerners.

nomies since 1933 have brought about some contraction in the size of this administrative "army," new regulatory activities and services involved in the Popular Front social reform program of 1936 have probably restored the total to the pre-depression figure. With the nationalization of the French railways in 1938, several hundred thousand more workers become for all practical purposes state employees. Even before this re-organization of the transportation system fully a tenth of the French electorate worked full-time for some public authority. In France, no less than in the United States, chronic complaints that the public services are over-staffed emanate from taxpayers' leagues and reactionary newspapers. Strictly from an efficiency standpoint, this is undoubtedly true. On the other hand, statistical analyses indicate that the ratio of public employment to total population is little higher in France than in other leading countries—perhaps not so high as the post-New Deal ratio in the United States. Such comparisons, of course, have little meaning unless they are broken down into unit personnel costs for standardized work.

Politically, the influence of the French national bureaucracy would be tremendous if its members voted as a solid phalanx. While complete solidarity is of course not realized, probably three-fourths of the State employees are concentrated in the political parties of the Left—Radical Socialist, Socialist, and Communist. Here it is that the corporately organized rank and file carry on incessant agitation in defense of their economic status. Their local *syndicats* are federated nationally into four major organizations—the General Federation of Civil Servants, the Postal Federation, the Teachers' Federation (elementary and secondary), and the Federation of Public Utility Workers—which maintain permanent headquarters, circulate "trade" newspapers, hold propagandist mass meetings, and threaten strikes.<sup>11</sup> Although no sustained nation-wide strike of government employee groups has been attempted since the ill-fated postal and railway strikes of 1909-10, sporadic local strikes, lasting for a few hours or a day at most,

<sup>11</sup> For a fuller picture of employee syndicalist organization and activity cf. the *Source Book* previously cited, II-98; or my treatise on *The French Civil Service*, chap. XV. The membership of the General Federation of Civil Servants alone exceeds 300,000. *La Tribune des Fonctionnaires*, 1 Jan. 1938.

are frequently called in order to dramatize staff dissatisfaction with current employment conditions or national policies. Government employees joined industrial workers in the country-wide twenty-four hour strike which was successfully conducted on 12 February 1934 as a united mass demonstration against fascism. If French industrial syndicalism should return to the revolutionary ideology to which it adhered during the earlier years of the movement—and there were certain indications that this was under way in 1937—the concerted cessation of work in key public services might possibly be utilized as a weapon of revolutionary attack upon the existing economic order.

Short of this remote contingency, there remains a continuing problem of how to reconcile the political and civic freedom of civil servants with the professional neutrality that they are legally supposed to observe in performing their official duties. This problem is presented in an acute form by the behavior of the French elementary school teacher. Should he, as he has been wont to do until recently, be allowed to teach children to resist military service in case of war? Is his usefulness as a teacher prejudiced when the congress of his national *syndicat* goes on record in favor of a general strike against war, as it has done on several occasions? Conservative opinion thinks so. On the other hand, the courageous campaign of French teachers to rid history textbooks of their militaristic emphasis has been vigorously applauded in liberal and radical circles. There is little criticism of the civic right accorded to State employees to run for Parliament, since, if elected, they must resign from their administrative positions. How to arrive at a satisfactory adjustment of the individual employee's obligations as a public servant and his rights as a citizen is not an easy matter. What is most needed is the development of a *substantive* code of ethics which will clearly differentiate between proper and improper behavior on the part of State employees, both on and off duty. So long as the contingency of revolutionary action, whether by organized labor or by fascist groups, haunts the national horizon, no rational solution of this perplexing problem seems possible. When all is said and done, it is unlikely that the increasingly class-conscious rank-and-file of the public service would long tolerate the sabotage, by old-line bureaucratic officials in high

places, of a program of socialization sanctioned by popular mandate. During the Popular Front régime of 1936-37, hints that some such sabotage by a Treasury and Foreign Office inner clique was being conjectured provoked the significant official pronouncement that the sanctity of civil service tenure would not be allowed to become a cloak behind which the maneuvering of unfriendly officials might undermine with impunity the application of national reform.

#### 4. *Budgetary Procedure.*

The equitable provision and economical utilization of financial resources are as essential to the good operation of a governmental system as the proper recruitment and management of its manpower. In line with the historic practice of parliamentary government, the preparation, under the French system, of an annual program of revenue and expenditure rests constitutionally with the Executive; while the legal authorization of taxes and appropriations belongs to Parliament. As noted, however, at the beginning of the last section, the French Minister of Finance does not occupy anything like the commanding position of the British Chancellor of the Exchequer as regards the formulation of the budget. The Finance Minister's function is to assemble the requests for funds which emanate from the other ministries, but he lacks effective authority to revise or reduce these requests. He may go so far as to suggest to his colleagues that they modify their estimates in certain particulars, but if his recommendations are rejected, his only recourse is to submit the issue to the Council of Ministers for adjustment, where, as likely as not, the Treasury's position may be overruled, unless its head enjoys the financial prestige of a Caillaux or the personal authority of a Poincaré. In short, it is usually the cabinet as a whole which shapes the political contours of the budget.

The Treasury agency technically responsible for assembling expenditure requests is its Division of the Budget and Financial Control. This staff unit examines the draft proposals submitted by the various administrative departments. These proposals are themselves the result of detailed intra-departmental negotiations involving the heads of field establishments and central offices, the departmental budget officer, and the minister. In addition, a "controller of appropriations," appointed

by the Finance Minister, is assigned to each department, and this representative of the Treasury transmits to his chief, the Minister of Finance, such comments or recommendations on the departmental estimates as seem desirable from the Treasury standpoint.

For a brief period in 1925, and again in 1929-32, a separate Ministry of the Budget was experimented with. The proclaimed purpose of this new department was to relieve the overburdened Ministry of Finance of a part of the task of preparing the budget. But the arrangement, amounting in reality only to a change "on paper," failed to justify itself and was eventually abandoned.

Responsibility for preparing the revenue side of the budget falls wholly upon the shoulders of the Finance Minister and the permanent officials of the Treasury. Estimated tax yields are arrived at by taking as a point of departure actual revenue receipts for the last completed fiscal year. "This method," observes a noted American budgetary authority, "has the serious drawback, admitted even by its ardent supporters, of producing underestimates in times of prosperity and overestimates under conditions of adversity."<sup>15</sup> That the French Treasury inclines to be unduly optimistic in its revenue estimates is attested by the fact that since the advent of the Third Republic over forty fiscal years have ended with deficits. Unbalanced budgets have almost invariably been the rule since the World War. If the Finance Minister decides that increases in rates on existing taxes or the adoption of new taxes are necessary, he must secure the approval of the cabinet before he may incorporate them in his budget bill; similarly, with any proposed reductions.

When completed, the revenue and expenditure proposals for the year are brought together in a single budget bill. "While appropriations . . . are in lump-sum amounts, these amounts are supported by the detailed schedules of each department, as they appear in the budget, and are expended and controlled more or less in accordance with these schedules."<sup>16</sup> The latter, filling several quarto volumes, buttress the first section of the budget report which is presented to

<sup>15</sup> A. E. Buck, *The Budget in Governments of Today* (New York, 1934), p. 176. By permission of The Macmillan Co., publishers.

<sup>16</sup> *Ibid.*, p. 150.

Parliament by the Finance Minister. This initial section, itself filling a fat volume, contains the budget message (*exposé des motifs*) of the Minister, the text of the budget bill (*loi des finances*), along with various summary and explanatory tables. The text of the budget bill is sub-divided into from 1500 to 2000 chapters. Generally speaking, it is French constitutional custom to authorize anew each year all revenues and expenditures, although an increasing number of deviations from this rule have been made in recent years.

While the budget is theoretically supposed to form a unified financial plan, with estimated income and outgo in balance, practice departs from theory in several respects. For example, it has been the usage for over a century to establish, alongside the regular budget, quasi-autonomous or "annexed" budgets for such "self-supporting" government enterprises as the postal, telegraph, and telephone administration, the State railway system, the Mint, the Printing Office, the powder monopoly, and the National Savings Bank. This arrangement is designed to emphasize the fiscal autonomy of these revenue-producing enterprises. Nonetheless, if their costs of operation exceed their income, as is occasionally the case with the P. T. T., and has been habitually so with the State railways in recent years, the difference has to be met out of the regular budget. Secondly, the device of a "special" or "extraordinary" budget is frequently employed when it is not politically feasible to try to meet current expenditures entirely from current revenue, appropriations in the special budget being provided by borrowing. The huge financial outlays of the World War period were handled in this fashion. For several years following the peace a special budget of "recoverable expenditures" was maintained for the work of restoring the devastated areas, in what ultimately proved to be a vain hope of charging off the entire cost to receipts from German reparations. Although the rule of "budgetary unity" was re-established in 1925, the expanded national defense and public works program inaugurated after 1934 revived the use of an "extraordinary" budget of staggering dimensions. This is now entirely financed by drawing upon the State's credit with the Bank of France and the investing public.

The second stage in the budget-making process is the discussion and enactment of the annual finance act by Parlia-

ment. In handling the budget bill, the Chamber of Deputies, where all financial legislation must constitutionally be first introduced, departs but little from the procedure on government bills in general. No other measure, however, absorbs so much time or is subjected to such minute scrutiny. The powerful Finance Committee of the Chamber, to which the budget bill is referred, does not hesitate, upon occasion, to tear the Government's financial proposals apart and substitute what is virtually a new budget. It is to this Committee that the ablest members of the opposition gravitate because its prééminence offers the members such excellent opportunities to gain the parliamentary spotlight. The Committee designates not only a *rapporteur* for the general budget, but a special *rapporteur* for each departmental and other separate budget, of which there are over thirty in all. By serving on the Finance Committee year in and year out, many of these reporters gain so thorough a knowledge of a particular service that their bulky reports provide a storehouse of information on the administrative defects, as well as the financial needs, of the service in question.

The extent to which the Finance Committee's report to the Chamber diverges from the Finance Minister's budget is an inverse measure of the Minister's authority and prestige. Almost never is he able to prevent substantial changes in the bill from being recommended by the Committee. For a decade after 1926 this Committee's majority inclined more to the Left than most of the Governments then in power, with the result that the Committee repeatedly proposed increases in salaries and other outlays, while refusing to support correspondingly higher taxes, the inevitable effect being to throw the Government's budget out of balance.

It is after the revised finance bill has reached the full Chamber, however, that the greatest havoc is wrought. Individual deputies, at any rate until recently, have enjoyed the cherished privilege of proposing budgetary amendments at will, many of them constituting little less than raids on the public Treasury for the benefit of particular interest groups or their own localities. Former Premier Tardieu reports that during the fifteen months he held office financial proposals emanating from individual deputies aggregated the staggering sum of fifteen billion francs, most of them, of



course, being defeated. Attaching "riders" to the annual budget act has been the most notorious abuse of this parliamentary privilege. In an effort to discourage Treasury raids, the Chamber some years ago modified its rules to the effect that no proposals for salary or pension increases, the creation of new services, or the reduction of an item of revenue might be introduced by individual deputies in the form of an amendment or an addition to the text of the annual budget act, but only as a separate bill. Further, the elimination of riders was envisaged by a rule inserted in the Finance Act of 1913 which bound Parliament to exclude non-financial provisions from future budgetary enactments. Since, however, there was nothing to compel either house to observe these "self-denying" ordinances, they have more than once been disregarded since the War. In 1934 a further attempt to make effective these restrictions on the budgetary initiative of private members of Parliament was undertaken by incorporating into the Finance Act for that year the procedural rules referred to above, along with a new provision that every bill entailing increased expenditure or reduced revenue must also provide for "equivalent resources, aside from the proceeds of borrowing, which are not already authorized in the budget act."<sup>17</sup> Whether these new statutory restrictions will be any better observed than the previous rules is doubtful so long as Parliament retains its existing political ascendancy over the Government. Nothing has been done which materially reduces the powerful prerogatives of the Finance Committees of the Chamber or Senate. Without the power to dissolve the Chamber, the French Cabinet cannot jeopardize its life by making every money issue between itself and the Finance Committees a matter of confidence. Unless the issue is of vital importance, the Government is as likely as not to give way.

Parliamentary consideration of the budget extends over several months. As a rule the Government does not get its bill in shape for submission to the Finance Committee of the Chamber until mid-summer. The Committee's report rarely reaches the Chamber before the extraordinary session which opens in the late autumn. Since this leaves only a few weeks for discussion of the bill, first by the Chamber and then by the Senate, its final passage is frequently delayed beyond the

<sup>17</sup> Art. 73, Finance Act of 28 Feb. 1934.

beginning of the fiscal year, which is the first of January. When this happens, provisional grants on account (*douzièmes provisoires*) have to be voted month by month, so as to permit the government services to function until the regular budget is passed. During the monetary crisis of 1926, seven of these monthly votes on account were necessary, while in 1933, the budget not emerging from Parliament until June, the government services were financed for five months in this provisional manner.

During the course of a given fiscal year it is also frequently necessary to vote supplementary appropriations (*crédits additionnels*) because of miscalculations of revenue yield or unforeseen situations requiring additional expenditure. The request for such appropriations is, however, not always sincere; nor is Parliament's scrutiny of such requests nearly as careful as is the case with regular budget. Complaint is heard that they unnecessarily "upset budgetary equilibrium and encourage extravagance."<sup>18</sup>

Special comment needs to be made on the Senate's part in authorizing the budget. As already observed, its financial powers are constitutionally equal to those of the Chamber except in the matter of initiating money bills. Once a budget bill has been voted by the lower house, the Senate is juridically free to alter the measure as it will, whether by increasing, adding, reducing, or eliminating items of revenue or expenditure. Nevertheless, because of the Senate's remoteness from the influence of popular suffrage, the thesis has been advanced by certain constitutional lawyers that the Senate should confine its action to entering a protest against those items of the budget which it finds unwise, leaving the final decision to the Chamber. While the Senate has refused to accept so restrictive an interpretation of its financial prerogatives, the pressure of time usually prevents it from conducting any very intensive study of the budget bill after its passage by the Chamber. As a means of gaining time, the Senate's Finance Committee often unofficially examines the original Government bill while the Chamber is still considering it. In spite of this procedure, the time element gives the popularly elected house an immense advantage if and when the budget, as is usually the case, officially reaches the Palais du

<sup>18</sup> Buck, *op. cit.*, p. 221.

Luxembourg only a fortnight or so before the end of the fiscal year or the parliamentary session.

The upshot of the matter has been that, although the Senate does not hesitate to reduce items of appropriation, it rarely insists upon increasing them above the level voted by the Chamber or restoring items thrown out by the latter, unless they were recommended by the Ministry in the first place. Sometimes this works in favor of a Government which, forced to accept objectionable amendments in the Chamber, relies on the Senate to restore those sections of the budget that the lower house has eliminated or emasculated. On financial legislation other than the annual budget bill, the Senate exercises to the full its constitutional prerogative of amendment. All in all, the French Senate's participation in budget-making has the general effect of complicating still further the Executive's up-hill effort to maintain order and balance in the financial housekeeping of the nation.

We come now to the execution of the budget after it is voted. Generally speaking, this involves two different sorts of action: (1) the collection and safe custody of authorized revenues and (2) the expenditure of funds as specified by Parliament. It goes without saying that the responsibility for collecting taxes and borrowing money rests exclusively with the Ministry of Finance. For the complex business of assessing and collecting taxes, the Ministry is organized into three large field divisions, as follows: (a) the Direction of Direct Taxes, Registrations and Stamps, (b) the Direction of Indirect Taxes, and (c) the Direction of Customs. The Finance Ministry also has the custody of all the public moneys that flow into the Treasury, although they are actually deposited in the Bank of France and its branches. The negotiation of loans, as well as the preparation of monthly estimates of Treasury funds available for disbursement by spending departments, is handled by a headquarters unit known as the Direction of the General Movement of Funds.

Turning to the expenditure side of the picture, the underlying principle is that every minister may be held liable for funds disbursed in an illegal manner. This means that appropriations earmarked for one administrative service may not be transferred to another, whether in the same or different department, without subsequent regularization by Parliament.

In recent years, however, Parliament has authorized the allocation of funds for public works by decree. Unspent departmental balances cannot be carried over to the next fiscal year, the principle of annual legislative control being so interpreted as to result in their reversion to the Treasury general fund or, more frequently, their specific cancellation by law. This, incidentally, is a practice which does not make for economy, since spending officials hasten to use up their balances for fear that appropriations for the following year will otherwise be reduced.

There is one notable exception to the rule of ministerial accountability for expenditure. Every year "secret funds" are appropriated to the Foreign Office and certain other ministries for propaganda purposes at home and abroad. These funds, amounting in 1933 to over 70,000,000 francs, are used to subsidize (at times even to bribe!) newspapers, foreign radio news services, information bureaux—in fact, in any way to create a favorable opinion of France and official government policy—without any public record of the recipients of the money. In recent years such a storm of criticism has been provoked by the "scandals" of these secret funds that in 1936 Premier Blum ordered a drastic reduction in the amount to be available henceforth.

Despite the fact that it is the duty of the Minister of Finance "to control disbursements with respect to the current condition of the treasury, to keep payments within the limits of legislative appropriations, and to supervise the actual payment of government creditors," the means at his disposal for fulfilling this function are inadequate.<sup>19</sup> In practice the authority to issue vouchers rests with the head of each department. Although all vouchers are examined before payment by an agent of the Treasury (*contrôleur des dépenses engagées*) assigned to each department, this official merely ascertains whether there are legal appropriations to cover the payments. He has no real power to question the purpose of the expenditure. If the controller refuses to approve a voucher, the minister concerned may appeal to the Minister of Finance, who nominally decides the matter. But in actual fact the minister may go ahead and make the payment without the controller's approval because the law holding depart-

<sup>19</sup> *Ibid.*, p. 231.

ment heads liable for unauthorized expenditure is seldom applied. In other words, there is no effective pre-audit of departmental expenditures.

The Minister of Finance, however, does have the power to require all government departments to use a uniform accounting system as prescribed by Treasury regulations. Furthermore, departmental accounts are examined, not only by the Treasury, but also by a Commission for the Verification of Accounts of Ministers, consisting of nine members chosen by the cabinet from the Chamber, the Senate, the Council of State, and the Court of Accounts. By law the findings of this Commission have to be reported to Parliament annually; but delays in rendering accounts have been so great since the World War that this mixed administrative and parliamentary control body has functioned in a rather perfunctory manner. A comprehensive report covering all the financial operations of the fiscal year, receipts as well as disbursements, is prepared by the Budget Division of the Ministry of Finance and submitted, along with the separate departmental accounts, to the Court of Accounts. These voluminous documents provide the materials which this Court uses in conducting a thorough post-audit of government expenditure. The value of this independent tribunal as an aid to Parliament in its effort to hold the administrative bureaucracy financially accountable *ex post facto* will be discussed in a later chapter.

## CHAPTER VII ·

### THE CENTRALIZED "POLICE" STATE

The French State of today engages in a bewildering congeries of activities. A far cry from the simple situation of 150 years ago, when governmental functions were confined to the collection of taxes, the maintenance of internal order and external security, and a few sumptuary regulations, the State has extended its promotional and regulatory arm over the social and economic life of the nation at innumerable points. This steady march of *étatisme*, to use an untranslatable French term, will be readily apparent to any one who scans the chronological table on page 176 showing when the present administrative departments of the national government were established as separate agencies.<sup>1</sup>

If this record were amplified so as to reveal the expanding area of *intra*-departmental activity, it would be still more impressive. Just as a century ago the Ministry of the Interior became so topheavy with the sundry functions dumped into its lap that it had progressively to be relieved of them, so shall we see that the newer social and economic departments of government are now facing administrative tasks that strain the facilities of the governmental machine. Under liberal republican rule, State activity has grown apace. This new *étatisme* we shall consider later. Our present purpose is to describe how taxation, local administration, civil police, and the judiciary are handled in a *centralized* system of government such as is exemplified by the French State.

<sup>1</sup> This list does not include those ministries which at one time had an independent existence but were later abolished or absorbed by other ministries. During the Second Empire, for example, there was a separate Ministry of Fine Arts, which later became a part of the Ministry of National Education. The World War gave rise to several ministries which were discontinued as the need for them disappeared, e.g., Munitions, Food, Industrial Reconstruction, and Liberated Regions. For a brief period (1929-36), there was a separate Merchant Marine Ministry.

<i>Name of Department</i>	<i>Year Established</i>	<i>Political Regime</i>
Justice	1791	Revolutionary Period (Constituent Assembly)
Finance		
Interior (Police)		
Foreign Affairs		
War (name changed to National Defense after the World War)		
Navy	1820	Bourbon Restoration
National Education (called Public Instruction until 1934)		
Public Works (previously a part of Ministry of Interior)	1831	July Monarchy
Commerce (separated from Public Works; originally a part of Ministry of Interior)	1881	Third Republic prior to the World War
Agriculture (detached from Ministry of Interior)		
Colonies (from 1881 an Under-Secretaryship of the Navy)	1895	
Labor (by grouping services previously in Ministries of Interior, Commerce, and Public Works)	1906	
Pensions	1918	
Air	1928	Third Republic since the World War
P. T. T. (originally with the Treasury; later an under-secretaryship of Commerce; still later, of Public Works)	1929	
Public Health (originally was Ministry of Hygiene (1920); then a part of Ministry of Labor)	1930	

### 1. *The Cost of Government.*

By studying the steady rise of governmental costs, a quantitative measure of the expansion of governmental activity may be had. For the last year prior to the World War, the national budget aggregated less than five billion francs (\$1,000,000,000 at the 1913 rate of exchange). Passing over the abnormally swollen expenditures during the course of the War, we find that by the beginning of the 1930's the total had climbed to approximately 53 billion francs. While this nominal increase of 1000 percent must be adjusted to the depreciation of the franc to a fifth of its pre-War value, the fact remains that during these twenty years national governmental costs had more than doubled.

By objects of expenditure this aggregate *real* increase of over 100 percent was distributed as follows:<sup>2</sup>

<i>Object of Expenditure</i>	<i>Percentage of Increase 1913-1932</i>	
National defense	40	} "War" Items
Debt service	180	
Pensions (chiefly military)	600	
General administration	140	} "Peace" Items
Education	100	
Social services	150	
Economic services	300	

In each of these periods, the outlays occasioned by war (past, present, and future) absorbed nearly seventy percent of the total budget.

During the three years following 1932, the trend of expenditure was slightly downward, the total falling to 49 billion francs in 1935. It was during this period that France attempted to meet the onslaught of economic depression by applying a severe deflationary policy. By 1936, however, the tide of public expenditure again turned upward, what with greatly increased outlays for unemployment relief, civil public works, and military armament.

Total expenditures for the year 1935, for example, were allocated as follows:<sup>3</sup>

<i>Object</i>	<i>Total in Millions of Francs</i>	<i>Percent of Total Budget</i>	
National Defense	10,458	21.9	} "War" items
Debt service	11,229	23.5	
Military pensions	6,236	13.0	
Civil Service pensions	4,147	8.7	} "Peace" items
General Administration	14,359	30.0	
Railway operating deficit	1,386	2.9	
Totals	47,817	100.0	

By further itemizing the item "General Administration," we find that roughly 27 percent of this appropriation was used on public education, 20 on public works, 18 on health, social insurance and labor regulation, and 7 for the expense of collecting taxes, the remaining 28 percent being absorbed by the other civil functions—diplomatic service, colonial ad-

<sup>2</sup> Adapted from a study by M. Francois Piétri, formerly Minister of the Budget, reproduced in *La Tribune du Fonctionnaire*, 24 Sept. 1932.

<sup>3</sup> Adapted from P. Schwob, "Avant les Elections: Les Finances publiques 1929-1935" in *L'Europe Nouvelle*, 28 March 1936.



ministration, police, legislature, courts, aids to industry and agriculture. etc.<sup>4</sup>

While the *ordinary* budget authorized for the fiscal year 1937 was not markedly larger than that of two years earlier, the amounts allocated in the *extraordinary* budget for "capital" expenditure rose to the unprecedented total of 15 billion francs. Taken together, the two budgets aggregated almost 65 billion francs—a record for peace-time. Nearly a third of this total was earmarked for the operation and enlarged equipment of the national defense establishment, a fifth represented service on the national debt, and almost a tenth was to finance an ambitious civil works program designed to combat unemployment. Taking a leaf from Mr. Roosevelt's New Deal, the Popular Front Government had reversed the deflationary policy of its immediate predecessors and was proceeding on the theory that the way to economic recovery was to create mass purchasing power by pouring State funds into the heavy industries and the building trades. But the increased costs of production caused by the shorter work week, higher wages, and paid vacations, which were simultaneously inaugurated as part of the new reform program, proved a greater strain than the budget could stand. Despite the temporary relief afforded to the Treasury by further devaluation of the franc in October 1936, tax receipts fell far below the estimates and frightened French capital took flight as the national deficit mounted. In March 1937 the Blum Government proclaimed a "pause" in the execution of its public works program. Even this action, however, failed to reestablish confidence in the State's credit. The market value of government securities fell to the lowest level since the War. As rearmament expenditures, forced by fear of Nazi Germany, multiplied, the national deficit for 1938 was conservatively predicted at 30 billion francs in a total budget of 85 billions. In spite of two further monetary "shots in the arm" (July 1937 and May 1938) and a considerable repatriation of French capital, the Treasury was still obliged to borrow funds at an extremely high rate of interest.

<sup>4</sup> Self-supporting services and enterprises (such as the P. T. T.) operating on autonomous budgets are not included in these figures. The cost of operating the latter was in the neighborhood of 8,000,000 francs, most of which was met by current income. There were in 1937 no less than seven of these annexed budgets.

All of this is by way of suggesting how heavily the French State is burdened with debt. In reality, the Government has been spending beyond its income most of the time since the World War. Fought primarily on credit, the struggle of 1914-1918 left the nation with a staggering debt of 150 billion francs, representing an increase of 440 percent in four years. Outlays for physical reconstruction after the peace, the monetary inflation of 1926-28, and the formidable defense and "depression recovery" programs of recent years, have swollen the total national debt to well over 500 billion francs, aggregate budget deficits since 1930 amounting to 70 billion francs alone. Add to this staggering figure another 40 billion francs, which constitutes the debt of local government units, and the grand total approaches 600 billion francs. Translated into American money (assuming the value of the franc to be four cents), the aggregate public debt of France in 1936 approximated 25 billion dollars. This equals nearly half of the total national, state, and local public indebtedness of the United States as estimated for 1935. On a per capita basis, the French debt burden was in the neighborhood of \$600, in comparison with only \$388 in the United States. Since 1932, however, payments on the external war debt (amounting to 175 billion francs), which France owes to the American and British governments, have been suspended. Exclusive of this sum, internal obligations of the French State in 1936 exceeded 19 billion dollars, or about \$457 per every man, woman, and child in the country.

A better measure of the relatively heavier debt burden in France is obtained if national differences in the wealth and income of the two countries are taken into account. According to comparable data, for 1935-36, these differences were estimated as follows:<sup>5</sup>

	<i>Total Wealth</i>	<i>Per Capita Wealth</i>	<i>Annual Total Income</i>	<i>Per Capita Income</i>
France . . . . .	\$ 47,000,000,000	\$1,114	\$11,000,000,000	\$259
United States . .	\$300,000,000,000	\$2,336	\$60,000,000,000	\$467

<sup>5</sup> The comparisons cited in this paragraph are based upon calculations contained in *The National Debt and Government Credit*, an investigation conducted by The Twentieth Century Fund (New York, 1937), chap. 5. In this tabulation the franc is valued roughly at 62.5¢ in terms of the Roosevelt dollar.

Thus it appears that for France the ratio of internal government debt to total national wealth was over two and a half times as high as for the United States, while in relation to total annual income, the debt burden of the former country was four times as high as that of the latter. To pay off the 1936 internal public debt of France would require the effort of the entire country for over two and one-quarter years, in comparison with only 308 days of effort by the American population to accomplish the same end for the United States.

If governmental debt was by 1937 becoming dangerous to the public credit in rich America, it had become doubly so for France, a country which must live much more frugally than its trans-Atlantic neighbor. Nor is the end of French public debt expansion in sight. Consolidated debt totals will continue to mount as the Treasury converts its floating paper into long-term obligations—unless drastic economy in expenditure, plus higher taxes, ends deficit financing very soon. The obstacles to really drastic curtailment of government expenditure, however, are formidable. They arise in part from the pressure of the masses for social services and of small business and agriculture for subsidies; in still greater part from the conviction of the entire nation that France must remain defensively strong against the menace of fascist aggression from outside her borders. After the Nazi seizure of Austria in March 1938, another huge national defense loan of 5,000,000,000 francs was floated by the Daladier government and oversubscribed within a few hours. It is not improbable that disguised or open repudiation, carried out by a forced reduction of interest rates or a levy on capital, will ultimately be necessary. Involvement in prolonged international war would make such a "liquidation in bankruptcy" inevitable. Barring the contingency of war, budgetary equilibrium in France depends more upon a thoroughgoing reform of the tax system than any other single factor.

## 2. *The Tax System.*

The financial difficulties of the French government, that is to say, cannot be entirely laid on the doorstep of past wars, competitive armaments in present-day Europe, and worldwide economic crisis. They are also due to loose and antiquated tax administration. In no large country is tax evasion more

widespread. From time immemorial the Frenchman has been inveterately opposed to those forms of taxation which permit a direct scrutiny of his private affairs by agents of the State. By and large, he prefers a multitude of disguised taxes, which, although they may be daily nuisances and raise the price he has to pay for commodities and services, are not collected directly from the consumer. "The French tax system," observes an eminent American authority, "suggests a huge bouquet gathered from a New England garden. One can make certain general observations about it, such, for instance, that it is old-fashioned and that it is made up of a great many different varieties, some of which are more curious than attractive. If, however, one essays a detailed and accurate description, he is likely to find himself the author of an encyclopedia."<sup>6</sup> No such description will be attempted here. Suffice it to say that well over half the total tax yield is derived from indirect taxes embracing, in order of importance, customs duties (yielding more than all the direct taxes put together), registration and stamp taxes, a business turnover tax, and miscellaneous excise levies on alcoholic beverages, motor vehicles, luxuries, and amusements. Another fifth is produced by a general income tax and special levies on inheritances and the income from stocks and bonds. Remaining revenues are derived from profits on the State industrial monopolies and the operation of the public domain.

As already indicated in Chapter I, only slightly more than a fourth of all private income in France is touched by the general income tax, while the number of income tax payers barely exceeds 2,000,000. Although more nearly based on ability to pay than any other, this tax produces only a little over two billion of the 35 to 45 billion francs raised by all forms of taxation. To an American or Britisher, French income tax rates seem amazingly low, especially for the heads of families, since the exemptions allowed for dependents are exceedingly liberal. For years, moreover, the peasants have been "the spoiled children" of the French fiscal regime. Forming the backbone of the Radical Socialist party, they have been

<sup>6</sup> R. M. Haig, *The Public Finances of Post-War France* (New York, 1929), p. 311. In 1934 there were 128 categories of taxes in France, 80 of which yielded altogether only a billion francs, the other 48 producing 39 billions.

able to escape their proper quota of taxation. What with the growing political solidarity of urban workers, there is now a demand for heavier taxes on income and inheritances which would reach down not only to the lower bourgeoisie, but to the smaller landowners as well.

Indeed, tax reform is a perennial political issue in France. Although no wholesale shake-up in the tax system has as yet taken place, piecemeal revisions adopted since 1934 indicate a definite trend toward a simpler and more equitable tax base. The old business turnover tax has recently been abolished and along with it numerous special levies on consumption goods. In their place a heavier general sales tax (not bearing on articles of food and drink), and a more widely spread and steeply graduated income tax, were to go into effect during 1937. Charges for postal, telephone, telegraph, and railway service were also substantially raised with a view to producing surplus revenue for the Treasury, or, in the case of the railways, to eliminating operating deficits. Concomitantly, steps designed to tighten up tax collections and prevent fiscal fraud are belatedly being applied by the Treasury. But tax evasion remains disconcertingly high. It is still too easy to circumvent Treasury regulations and cheat the revenue collector.

Despite the low yield of many French taxes, the *aggregate* tax burden borne by the country is admittedly heavy. To compute what this is, the taxes levied by local governmental units (*départements* and *communes*) must be added to the revenue receipts of the central government. According to the latest official compilation, the former produce over 13 billion francs. Including this sum, the aggregate tax receipts for 1934 were estimated at nearly 50 billion francs. If this total is translated into dollars at the then current rate of exchange, and divided by the total population, we discover that the per capita tax burden for that year approximated \$75, of which \$55 represented national and \$20 local taxes. For the same year, the aggregate per capita tax burden was estimated to be \$78 for Great Britain and \$93 for the United States.<sup>7</sup> Adjusting the French per capita tax burden to per capita income, which was only a little over half as high as per capita income in America, it may be concluded that the real burden of taxa-

<sup>7</sup> These figures are taken from "Taxes: English, French, American," by Edward C. McDowell, Jr., in *Current History*, May, 1936.

tion for Frenchmen was nearly twice as heavy as for Americans. All of which lends weight to an oft repeated dictum that the French people are taxed "not lightly, but not rightly."

\* \* \* \* \*

Leaving the question as to how French taxes might be more equitably distributed and more efficiently collected, we come to a still more important query: what does the French taxpayer receive in service from the governmental machinery which his pocketbook so grudgingly supports? For the most part the answer to this query can be given only in a descriptive and qualitative sense. Reliable criteria for comparing quantitatively the public services of one country with those of another have not as yet been developed—if, indeed, they ever can be!

### *3. Local Reaches of Central Administration.*

In approaching this problem, we must remember that governmental functions are far more centralized nationally than is the case in the American federal system. Historically and constitutionally, France is a unitary State *par excellence*. Legislative as well as administrative power radiates from Paris to the remotest hamlet in the land. Parliament's power to determine how local affairs shall be administered is without constitutional limitation. Nor has the history of France produced a tradition of "local self-government" at all comparable to the situation in Anglo-Saxon nations. Fortified by a thousand years of absolute monarchy, the Napoleonic conception of unified hierarchical control dies hard with Frenchmen.

It was not until almost the middle of the nineteenth century that Parliament, in response to a growing demand for "decentralization," saw fit to allow a limited measure of popular control in local affairs. By 1848 the various local councils—of the *départements*, *arrondissements*, and *communes*—had been made elective by manhood suffrage, and in the smaller localities the municipal councils had received the right to choose the mayor and his administrative assistants. The powers of these councils were gradually increased. During the Second Empire this trend toward a mild local "autonomy" was temporarily reversed. It reasserted itself, however, after the Franco-Prussian War. In 1871 Parliament

passed a law considerably augmenting the number of matters on which the departmental councils could definitely legislate and somewhat reducing the authority of the prefect over departmental affairs. Thirteen years later a comprehensive municipal code was adopted and applied to all *communes* except Paris—rural and urban alike. This law forms the charter of present-day municipal government. While subsequent statutory enactments, including notably the Poincaré decrees of 1926, have "deconcentrated" authority a little further by conferring additional discretion upon local representatives of the central government, and effected a limited consolidation of local areas (chiefly *arrondissements*), the administrative map of France has not changed in any important respect since the French Revolution.

This map is featured by a hierarchy of areas of which the central government offices in Paris form the point of the pyramid. At the base are some 38,000 *communes* into which the entire territory of the nation is divided. In a dual sense the *commune* is the primary geographical area of public administration: (1) its mayor serves as the agent of Paris in transmitting and applying to the local population the law and instructions that emanate from the national government, and (2) its elective council and mayor together exercise such powers of local government as have been delegated to the *commune* by Parliament. French communes range in size from small rural districts of a few hundred people to vast urban agglomerations such as Paris, Marseilles, and Lyons. Today only 7,000 of the 38,000 contain more than a thousand inhabitants. Except in minor particulars, a uniform framework of government has been prescribed for all *communes*, urban along with rural. Such is also the case with the taxing and ordinance powers enjoyed by the *commune*. This rigid uniformity of organization, imposed upon a multiplicity of areas which do not fit an age of motor cars, improved highways, and telephones, admittedly produces uneconomical and inefficient rural government; but current proposals to consolidate communes into perhaps a tenth the present number and "zone" them for purposes of local government, have not yet been able to overcome the inertia, vested interests, and local pride which block the path to reform—in France no less than in the States of the American federal union!

Sandwiched in between the *commune* and the *département* are two sets of local areas whose administrative importance is negligible. The first of these is the *canton*, of which there are slightly over 3,000. Lacking an administrative head, the *canton* serves merely (1) as an electoral district for members of local councils, (2) as the jurisdiction of the justice of the peace, and (3) as a recruitment area for the army. Although the *arrondissement* is endowed with a locally elected council (along with a "sub-prefect"), this body possesses no real powers of local government. Its only administrative function is to apportion the *arrondissement's* quota of direct taxes among the *communes* within its limits—a routine operation that might equally well be conducted by the prefect's office. As one French critic has expressed it, the sub-prefect is nowadays really only the prefect's "letter box." For years the disappearance of the *arrondissement* has been advocated. In 1926 Premier Poincaré dared to abolish 106 of the smaller *arrondissements* by decree, but selfish local interests soon forced Parliament to re-establish most of them. Like the *cantons*, their *raison d'être* is limited to electoral and judicial operations. In the former sense they are local constituencies for members of the Chamber of Deputies; in the latter, territorial jurisdictions for trial courts of first instance.

The *département*, however, not only serves as the general basic area for the "regional" administration of national policy, but enjoys a corporate personality as a unit of what, in Anglo-Saxon parlance, would be called "county" government. In territorial extent the *départements*, now ninety in number, average 2,000 square miles—twice as large as the average American county. Population differences between these two historic units of government are still greater, the former averaging close to 500,000 persons, the latter but 40,000. At the head of the administration of every *département* stands the prefect, an official whose title may be traced back to Roman times. He is appointed by and responsible to the Minister of the Interior. Formerly "political" appointees, the prefects must, since 1934, be chosen by promotion from subordinate career officials in the national civil service. At the same time, permanence of tenure is not insured by law. For political reasons, the central government frequently shifts prefects from one district to another, may "demote" them to



a less important post or place them on an "unattached" list, but outright dismissal is practically unknown.

The prefect has a dual function. On the one hand he acts as the local representative of national authority. As such he himself executes such orders from his chief, the Minister of the Interior, as pertain to departmental administration, and transmits instructions to the communal authorities within his jurisdiction. To the prefect has been delegated the power to appoint subordinate employees in the postal and telegraph services, the tax collection services, welfare institutions operated by the national government, and teachers in the public elementary schools. He also exercises general supervision over the maintenance of penitentiaries and national highways, the letting of contracts pertaining to the public domain, and the assessment and collection of direct taxes. Within his *Département*, moreover, the prefect is responsible to Paris for the preservation of order. His police powers extend to the enforcement of laws regulating public morals, public hygiene, public meetings, and the press. All prefectural ordinances (*arrêtés*) are, however, subject to annulment or revision by the central authorities. This control, which the French aptly call "administrative tutelage," is designed to prevent the prefect from acting contrary to national law or decree.<sup>8</sup>

As the embodiment of national authority, the prefect is provided with an imposing official residence, the *prefecture*, above which the "tri-color" always flies and in which the *bureaus* of the departmental government are housed. His regular salary is paid out of the budget of the Ministry of the Interior, and he receives in addition a substantial allowance for travel and entertainment. Whenever a minister or the President of the Republic pays an official visit to a provincial city, it is the prefect who makes all arrangements and presides at the round of ceremonies and banquets to which the visit, in traditional French style, inevitably gives rise.

In spite of the extensive legal prerogatives which attach to the prefect's office, his importance as a national adminis-

<sup>8</sup> As a means of expediting the administrative progress of his "economy" decrees, Premier Laval resorted in August 1935 to the unusual step of convening the entire corps of prefects in his Paris office. This conference afforded a direct face-to-face interchange of ideas between the head of the Government and its field representatives.

trative officer has for a generation been steadily diminishing. The *indirect* hierarchical processes of the law are yielding to the newer technical possibilities of *direct* supervision over the processes of territorial administration by the central authorities in Paris. Administratively, the Ministry of the Interior is becoming an "anachronism." The telephone has made it possible for the ministries handling economic and social functions to keep in direct day-to-day communication with their field officials out in the *départements*. More and more the practice is to "shortcircuit" hierarchical procedure by passing over and around the prefecture. The only two important functions which still remain within the direct jurisdiction of the Ministry of the Interior are (1) police regulation and (2) supervision over national elections. Were these transferred to the Ministry of Justice, where they might be equally well or better handled, there would be no reason to continue a ministry notoriously enmeshed in petty political intrigue and characterized by lax administrative standards. The prefects nowadays give greater heed to the "political instructions" they get from the deputies elected in their *départements* than to the Ministry in Paris. Few prefects are administratively minded; the vast majority prefer to play "local politics" in such a way as to advance their own professional interests.

The declining importance of the *département* as a *national* administrative area is indicated by still another development. Larger "regional" districts have been interposed between the *département* and the national capital for the management of many of the more important national services. The educational establishment, including elementary and secondary schools, as well as the State universities, is divided into seventeen "academies," each embracing several *départements* and presided over by a *recteur* responsible directly to the Minister of Education. Similarly, the French army is administered by means of twenty-one corps areas, subdivided for purposes of the enrollment of military classes into some 160 local districts. On account of tactical and transportation requirements, none of these military areas corresponds completely with the boundaries of the historic local government areas. In 1926, as a move to secure greater economy and efficiency, the Postal, Telegraph and Telephone Administration consolidated over

seventy "departmental directions" into seventeen regional districts.

For forty years advocates of "regionalism" have argued that still greater administrative advantages might be anticipated if the *départements* were consolidated into twenty or so regional districts for all purposes. Upon such areas there might well be devolved substantial powers of regional government, thereby partially relieving the national government of a congestion which grows worse every year.<sup>9</sup> The French nation, however, has been accustomed so long to "centralization" that it prefers to suffer the administrative inconveniences and delays to which excessive central control gives rise rather than perform a major surgical operation upon its historic units of local government and administration. Thus both the *départements* and the *communes*, the majority of them too numerous in number, too small in area, and too poor in fiscal resources for the most effective administration, retain the territorial contours given them over a century ago. All of which means that the map of France is dotted with rural schools almost devoid of pupils, courts whose judicial dockets are unfilled, empty jails, postoffices in deserted villages, and tax offices in localities where the number of taxpayers is now negligible.

To return to the prefect: not only does he act as a field agent of the central government, but he is also the executive head of the local government of his *département*. "In this capacity it falls to him to appoint all employees of the department, to prepare all business for consideration by the council, to carry out the council's ordinances, to supervise elections, and generally to represent the department and its people in their relations with neighboring departments and with the authorities at Paris."<sup>10</sup> While the departmental council is required by law to meet twice annually (at Easter and in the autumn), special sessions may be called at any time by the prefect. The substantive powers of this council fall into three categories: (1) the maintenance of departmental ("county") highways, (2) the operation of certain welfare and relief ser-

<sup>9</sup> R. K. Gooch's *Regionalism in France* (New York, 1931) gives an excellent resumé of the history of the French regionalist movement. Since the World War the recovered province of Alsace-Lorraine has been the chief center of agitation for regional decentralization.

<sup>10</sup> Ogg, *op. cit.*, p. 626.

vices, and (3) the upkeep of departmental public buildings (prefectures, courthouses, jails, casernes for the *gendarmerie*, and normal schools). To finance these activities the council, ordinarily upon the prefect's recommendation, levies such taxes and charges for services as are permitted by national law. Prior to the "decentralization" decrees of 1926, the departmental budget had to be approved by the Minister of the Interior before it became effective. Now the budget is self-executive unless it entails a direct tax levy beyond the amount fixed annually by the national finance act, or an issue of bonds running for more than thirty years. For either of these actions the authorization of the national Council of State is necessary. Notwithstanding the gesture of greater fiscal freedom which was made to French departmental councils ten years ago, they can still do little except upon the prefect's initiative, and he, in turn, remains bound by a constant flow of ministerial instructions from the national capital.

Central administrative control over the activity of locally elected authorities is exercised in other ways than through the prefect. In case they fail to perform their duties as prescribed by law, mayors may legally be suspended by the Minister of the Interior and removed by the President of the Republic, i.e., by cabinet decree. For similar reasons, communal as well as departmental councils may be suspended for a month by the prefect and if necessary dissolved by order of the central government. If sufficient taxes to support local services made mandatory by national law are not levied by a municipality, a special tax to cover the difference may be imposed by national decree. Since the World War, subsidies to a wide variety of local services have been granted by the national government. The purposes for which these grants-in-aid are assigned include such things as unemployment relief, the care of dependent children, low-cost housing projects, urban beautification, rural electrification, hospitals and clinics, and police and fire departments. For the most part these grants are apportioned according to population or need in such a way as to help equalize the financial burden of local authorities. Applications for subsidies involving capital outlays must be technically approved by the ministry concerned before they can be released by the national Treasury. By general legislative law, moreover, the State "has laid down rules of recruitment and

scales of pay for local administrative employees which operate so as to guarantee a minimum level of competence. Further, a branch of the Ministry of the Interior regularly inspects the operation of certain services administered locally."<sup>11</sup> Accountability for the local expenditure of national subsidies is maintained through Treasury inspectors who, by unannounced visits and periodic inspections on the spot, criticize and suggest improvements in methods of accounting and make what amounts to a *pre-audit*. Since 1931, the central government has, through a special fund, enabled both *départements* and *communes* to borrow money for approved local projects at lower rates of interest than the current market rate. The expenditure of the proceeds of these "subsidized" borrowing operations is subject to the same forms of central supervision as exist for direct grants.

#### 4. *The Maintenance of Civil Order: Police.*

A primary duty of every government is to maintain civil order and provide a system of sanctions against law-breakers. The performance of this task requires a police establishment and a set of courts. In the French Republic the former service is administered jointly by the central government and the municipalities. The entire hierarchy of courts, on the other hand, is under the jurisdiction of the national Ministry of Justice.

At the apex of the police establishment stands the *Sûreté Nationale*. Forming a special division of the Ministry of the Interior, the *Sûreté* serves somewhat the same function for the French State as Scotland Yard for the London metropolitan area. The *Sûreté* consists of a small, closely knit corps of 2000 non-uniformed police inspectors and commissioners who operate in secret. Attached to the *Sûreté* is a service of investigation, the *police mobile*, whose operations cover the country through sixteen "flying squads." This service is always available to the public prosecutors of the Ministry of Justice. From their central headquarters in Paris, plainclothes-men of the *Sûreté* may be dispatched to any part of France at a moment's notice—to supervise the search for peculiarly dangerous crimi-

<sup>11</sup> Cf. my article on "The Changing State-Local Financial Picture in France, *National Municipal Review*, Sept., 1936.

nals, to uncover plots against the security of the State, or, if necessary, to aid local police authorities in quelling riots or other public disturbances.

In addition, the national government maintains a large quasi-militarized field force of 40,000 men known as the *gendarmerie*. Administered by the War Ministry, this establishment includes both infantry and cavalry divisions, a unit of each being quartered in garrisons provided in each *département*. This State police may be requisitioned by the local as well as the national authorities in case of serious threats to public safety arising from riots, strikes, physical calamities, or hostile political demonstrations. It is likewise used to police national highways outside incorporated places.

The municipal police establishment of the national capital is also under the direct control of the Ministry of the Interior. The reasons for this arrangement are to be found in the political history of France. The Parisian populace has been the initiator of so many of the revolutionary disturbances of the past that it has acquired the reputation of being peculiarly susceptible to subversive agitation. So, today, with a view to safeguarding the security of country and régime, the State prefers to keep the police departments not only of the capital, but of certain other strategically located urban centers as well, under its own jurisdiction.<sup>12</sup> For the region of Greater Paris, the metropolitan police force is directed by a special Prefect of Police directly responsible to the Minister of the Interior. This prefect is easily the most powerful police officer in France. He has under his command a corps of some 16,000 uniformed patrolmen, traffic officers, plainclothes detectives, and inspectors. A bureau of criminal identification, forming part of the set-up at the Paris Prefecture of Police, is used as a central clearing house for fingerprint records for the entire country. As a matter of fact, the use of fingerprints in modern police administration was inaugurated by the famous French criminologist Bertillon. Within the past decade technical facilities for transmitting to other French cities photographs of fingerprints of "wanted" persons have been set up by the Prefecture, an improvement which has added to the interna-

<sup>12</sup> These other cities include Marseilles, Lyons, Nice, Strasbourg, Mulhouse, Metz, and Toulon, two of them being naval bases and three others being situated in the "recovered" provinces near the German frontier.

tional fame of the French police for speed in the battle against organized crime. While the Paris police budget must be submitted by the Prefect to the popularly elected municipal council (of the *Département* of the Seine), the latter may not reduce a single item. Its power is limited to votes of "censure." This budget is subsidized up to 50 per cent of the total expenditure out of the national Treasury. Police costs are similarly shared in the other cities where direct State control exists.

Despite the fact that both establishments are legally subject to the national Ministry of the Interior, the *Sûreté Nationale* and the Paris Prefecture of Police do not always work in harmony. So strong is the professional, if not political, rivalry between their officered personnel, especially in the detective divisions, that coöperation gives way at times to antagonism. During the investigations of the murder of Magistrate Prince in 1934, the two services, so it was later revealed, sabotaged each other's work by denouncing and even arresting the informers used by the rival service. Political pressure by deputies has also been known to interfere with the work of the *Sûreté*. Revelations brought out during the Stavisky scandal led to charges of actual police corruption in the offices of the *Sûreté* and its partial reorganization later that year (1934). Another significant development caused by the riots following the Stavisky affair was the dismissal of the Paris Prefect of Police by the Radical Socialist Minister of the Interior. This Prefect, Jean Chiappe by name, and notorious for his fascistic sympathies, was suspected of being in collusion with political leagues like the *Croix de Feu* for the preparation of a *coup d'état* against the parliamentary régime. Whatever the real facts, this whole episode demonstrated that the police and public prosecuting services were by no means free of internal dissension or, at the least, that more effective administrative coördination was needed between the offices of the Paris Prefecture, the Ministry of the Interior, and the Ministry of Justice.

In time of grave emergency, caused by serious civil strife or large-scale strikes, two additional semi-militarized agencies may be called upon to protect the capital. One of these is the Republican Guard, which, wearing conspicuous brass helmets and striking uniforms, both mounted and on foot, serves as a

metropolitan *gendarmerie* 20,000 strong. The other agency, curiously enough, is the Paris fire department. Constituting a unit of the regular army, the firemen of the capital are equipped with rifles, as well as with streams of water under high pressure! More than once they have been "called out to extinguish with their hose the fervor of political demonstrations." As a final resort, regular army garrisons may be called into action when domestic violence proves too much for the police and *gendarmerie*. In recruiting French policemen preference is always given to men who have been non-commissioned officers in the army, while every recruit must have completed his term of compulsory military service before he may be admitted to a police department.

Outside the few large urban centers and frontier cities where police administration is centralized in the hands of the State, there is considerable local autonomy in police matters. This autonomy increases as the character of the commune changes from urban to rural. Legally speaking, local police powers are concentrated in the prefect of the *département* and the mayors of the communes within his jurisdiction. In all communes with a population of 5000 or over, the mayor is assisted by one or more police *commissioners*, appointed by the prefect. These commissioners are paid by the municipality, their salaries constituting mandatory items in the city budget. They are under the mayor's orders for purposes of local traffic control, patrol duty, arresting lawbreakers caught in overt acts, and enforcing obedience to local sanitary and safety regulations. They also aid the State prosecutor's office as a "judicial" police in connection with the detection and investigation of crime. A second category of police officers, called *agents*, is optional for cities less than 40,000 in size and obligatory for all others. These officers are appointed by the mayor with the prefect's consent and are entirely under the former's authority. The municipal council may further provide by ordinance such subordinate police personnel as it deems necessary for the city's needs. It is the latter—inspectors, sergeants, patrolmen, and traffic officers—with whom the tourist comes into visual contact when he visits a French provincial town. The general plan of organization, salary scales, and other details of the police departments of all cities above 40,000 in population are regulated by national decree. The



central State, that is to say, imposes minimum standards to which the municipal authorities must everywhere conform.

In small rural communes, local policing is handled by the village mayor, assisted, if the village council so decides, by one or more *gardes-champêtres*. The latter are appointed by the mayor with the prefect's approval. They may be compared to the "constable" in American rural government, with this difference: their jurisdiction extends to the "unincorporated" rural territory outside the town or village proper. It falls to them to police backcountry roads and lanes; to see to it, for example, that wandering cattle do not injure crops or vineyards; to supervise measures for the destruction of poisonous insects, and to enforce local regulations against fire hazards. In sparsely settled areas such duties rarely require the employment of more than one of these humble "guardians of the countryside" per *commune*.

##### 5. *The Administration of Justice: Ordinary Courts.*

Among French constitutional lawyers controversy has long raged as to whether the judiciary should be considered a distinct branch of government coördinate with the legislature and the executive. The Constitutions of the Revolutionary period referred to the existence of three separate powers, some of them even going so far as to provide for the popular election of judges. The Constitution of the Second Republic likewise made special mention of the "judicial power." On the other hand, the Constitutional Charter of 1814 proclaimed that "all justice emanates from the King," while the Constitution of 1875, as already noted, is completely silent on the subject of judicial organization. Today, the preponderant view has come to be that, since the function of judging is essentially administrative in nature, the courts should be regarded rather as a part of the executive power than as a separate branch of government.

To Americans, accustomed since colonial times to attaching prime importance to the independence of the judiciary, the French conception will at first glance produce a shock. How may there be any adequate guarantee that judges will dispense justice fairly and courageously unless their independence is protected by the Constitution? The answer is that in actual practice French administration of justice, even though it rests

entirely upon a statutory basis, is undoubtedly as free from political or economic pressure, personal discrimination, or favoritism, as the judiciary of most American States. No system of courts yet devised by man has in this respect reached the ideal.

Present-day French judicial organization is the product of an historical evolution which began with a series of far-reaching reforms instituted by the Constituent Assembly of 1789. With only minor changes, the judicial hierarchy still conforms to the pattern devised a century and a half ago. The method of choosing judges was, however, fundamentally altered by Napoleon. Discarding the elective principle, which the Revolutionary Assemblies had prescribed, the First Emperor decreed that all judges should be appointed by the executive. They have remained appointive officials throughout the various régimes which have succeeded Bonaparte's Empire.

If executive appointment of members of the bench had not gradually been supplemented by protection of tenure, judicial independence could never have been realized. As a matter of fact, despite constitutional guarantees to the contrary, "purgings" of the judiciary were resorted to at various times until well past the middle of the nineteenth century. Since 1883, however, a national law has effectively prohibited the removal for political reasons of all "sitting" judges but justices of the peace. The judiciary is now assured of tenure during good behavior, i.e., until the age of retirement as fixed by law. Judges may be dismissed only for cause after a judicial hearing before the highest court in the land.

Somewhat later came the introduction of a competitive recruitment system which has had the effect of elevating the judiciary to the status of an organized profession. Until a generation ago, any member of the bar holding a law degree was eligible for appointment to the bench. For admission to the bar an apprenticeship of a year or more in the office of an *avoué* (advocate) or a *notaire* (notary) is necessary, after which comes an investigation of the candidate's personal qualities by the leader of the local bar. If the young lawyer survives this ordeal, he must then serve three more years in a law office before he can become a full-fledged member of the bar. Under this régime, many judges secured their appoint-

ments through political influence. Nor were promotions from lower to higher courts free from favoritism. The result was that fewer and fewer first-rate lawyers sought careers on the bench at the very time when the business of the courts was becoming increasingly complex and voluminous.

All of this was changed in 1908. Under regulations issued by the Ministry of Justice at that time, a competitive professional examination system was set up for admission to the judiciary. This examination constitutes the final step in the selective process. All applicants must be twenty-five years old, be *licenciés* in law (equivalent to the American LL.B. degree), and have practiced for at least two years at the bar (unless they have perchance won a prize from some law faculty). Most vacancies on the courts of first instance are now filled, in order of merit, by men who have passed the entrance examination, which includes both written and oral tests set by high judicial officers. Members of the staff of the Council of State, professors of law, attorneys admitted to practice before the two highest courts (Court of Cassation and Council of State), and solicitors and notaries with ten years of professional experience, may become judges at any jurisdictional level without examination. In actual fact, however, few judicial appointments, even in the higher courts, go to this category of experienced lawyers. By and large, it may be said that the judiciary is now organized on a competitive career basis. Thus in France every young law graduate has two alternative paths before him—private practice or a life career on the bench.

Unfortunately, advancement up the judicial ladder is not so well safeguarded from outside pressure, favoritism, and nepotism as initial appointments. The French dramatist Brieux's amusing play, *La Robe Rouge*, ironically portrays the incessant intrigue and subtle maneuvering in which provincial magistrates used to engage in order to "wangle" promotions. This situation continued to be one of the most insidious evils in the French judicial system until well into the present century. Since 1906 successive ministerial reforms have somewhat reduced the effect of parliamentary "recommendations" that such and such a magistrate be promoted, transferred, or passed over! For all but the highest judicial posts, annual promotion lists are now drawn up in order of merit by

a central commission of judges designated by the Ministry of Justice. To get his name on a promotion list, a lower court judge must first be recommended by the presiding judge and prosecutor of the regional Court of Appeals for his jurisdiction, and subsequently be selected by the central departmental board from the various panels of regional nominees which are submitted to the Ministry in Paris. Since, however, the final list for each judicial rank may contain as many as three times the number of vacancies, and the Minister of Justice, who makes the final selection, is bound neither to follow the order of names on the list nor to fill all vacancies from the list, the door to external interference in judicial promotions has not been entirely closed. As an English commentator on the French judiciary recently described the situation, "the most potent Deputies in the Parliament, the men who are impregnable in their own seats and who can stampede the Chamber at critical moments, or who wield such blocks of votes that their support or neutrality commands a high price from day to day—in short, the men with whom Ministers have to traffic most and who may themselves at any moment become Ministers—are by profession, as a rule, advocates. That is to say, they practice before the judges. But the judges depend upon the favor of a Minister, and the Minister depends on that of these politician-advocates."<sup>13</sup> If the Minister of Justice is in a weak political position, he may yield to "representations" made to him by certain of these private attorneys, deputies or senators. On the other hand, if he is strong, he will not be so influenced. Complaint is still heard that insidious pressure of this character now and then determines who shall be rewarded with the black robe of the provincial courts of appeal, or the still more coveted red robe of the central Court of Cassation in Paris. By and large, however, it may be said that integrity, capacity, and seniority of service govern the selection of the magistrates who preside over the higher French courts.

The status of public prosecutors differs in two important respects from that of the bench. This corps of officials, forming what is called in France the "standing" magistracy (since the prosecutors stand when speaking, in contrast to the judges,

<sup>13</sup> R. C. K. Ensor, *Courts and Judges* (Oxford Press 1933), p. 47. By permission of the Oxford University Press, publishers.

who remain seated) is really "a hierarchy within a hierarchy." In general, the prosecutors must, as appointive officers, possess the same initial professional qualifications as judges, and the majority of them advance step by step from the lower courts to the higher courts. But, in contrast to the judges, they do not enjoy legal protection of tenure. The Minister of Justice may dismiss or transfer them at pleasure. Furthermore, their advancement in rank is not regulated by any such "promotion list" procedure as prevails for the sitting magistracy. As a result of the conspicuous rôle which prosecutors play in criminal investigations, as well as in many civil cases with political implications, it is easier for the clever and ambitious among them to attract the attention of their superiors than is the case with the members of the bench, and thereby to secure rapid advancement to a higher court. In other words, the factors determining the prosecutor's status do not encourage the complete objectivity and independence which ideally should characterize the performance of his duties. Prosecuting attorneys attached to the courts of first instance are also subject to considerable direction by their superiors, the *procurors-general*, who represent the State's interest in cases before the appellate courts. Some critics of the French judicial system hold that this control is excessive, interfering at times with the local prosecutor's handling of criminal cases. On the other hand, the bench may not in any way encroach upon the public prosecutor's freedom of action; nor, vice versa, is the latter permitted to be present when the judges are deliberating on what their decision in a case shall be.

There is another special feature of the French judiciary which differs sharply from Anglo-American practice. "The principle of 'collegiality' is observed in every court. No *magistrate* ever sits to give judgment alone. The numbers vary in different courts; the higher the court, the more the judges. The minimum to form a Bench anywhere is three; at the top in the Court of Cassation, each 'chamber' (as the different units of that august body are termed) consists of sixteen judges sitting together, with no less than eleven as a quorum."<sup>14</sup> The plurality of judges rests upon a proverbial belief among Frenchmen that to act is the function of one, while to judge requires the deliberation of several heads. Thus in

<sup>14</sup> *Ibid.*, p. 28.

every court the presiding judge is flanked by at least two younger and less experienced colleagues, who have equal voice with him in rendering judicial decisions. Since all decisions are by majority vote, the presiding judge may find himself at times in the minority. More usually than not, however, his superior prestige and experience enable him to convert his associates to his own view of the case.

The collegial system produces a judiciary which is numerically very much larger than the bench in either England or America, where, for all but the highest appellate courts, a single judge is used. British judges handling civil cases number scarcely more than a hundred, while in France there are over 3600. Despite the relatively lower salaries paid to French judges, the aggregate cost of maintaining this personnel is heavy. In the interest of economy, substitution of the single for the multiple-judge organization has been urged by certain writers on the judiciary, but the force of tradition, not to mention professional vested interests, still keeps things as they are.

In the French judicature civil and criminal justice is unified. Its structural framework includes four tiers of courts, and except in the Court of Cassation at the top, all judges may be called upon to try both civil and criminal actions. The lowest courts are those of the justice of the peace, of which there was formerly one in each canton. In recent years some of these petty courts have been consolidated on an inter-cantonal basis. Still numbering over 3000, they have summary jurisdiction over violations of police regulations and other minor offenses, as well as civil disputes where the amount involved is no more than 1000 francs, with right of appeal if the amount is larger—up to 3000 francs. Only about 1 per cent of such cases are, however, ever appealed. The chief function of the justice of the peace is to act as a “conciliator” of the parties out of court. So successful has he been in this regard that over 40 per cent of all civil controversies originating in rural areas are settled without trial.<sup>15</sup>

Next in scale come the regular trial courts of first instance,

<sup>15</sup> In addition to the regular justices' courts there are also special courts of “experts” in the larger municipalities. The latter are of two types: (1) commercial tribunals, consisting of unpaid judges elected by business men, which have limited jurisdiction over commercial disputes, and (2) industrial courts (*conseils de prud'hommes*) of employer and employee

or *tribunaux d'arrondissement*, as they were called until 1926. This was because there was one such court in each *arrondissement*, or 379 in all. The Poincaré reforms previously cited abolished for reasons of economy over a hundred of these tribunals, chiefly in the smaller areas. In the heavily populated departments, they were divided into two or more sections. Subsequently, many of the old courts were reestablished because of local pressure upon vote-trading deputies, even though the volume of judicial business in no sense warranted such action. The original jurisdiction of these trial courts over civil matters is unlimited. They also act as appellate courts in civil cases involving more than 1000 francs which are sent up from justices of the peace. The tribunals of first instance have criminal jurisdiction over misdemeanors (*délits*), including theft and embezzlement, but excluding more serious crimes, such as homicide. In hearing these cases, the court sits as a "correctional" tribunal, the judges deciding the issue without a jury. Although appeals from the decisions of the courts of first instance are limited in civil matters to cases where the amount involved exceeds 1500 francs, all "correctional" judgments may be appealed.

Above the local courts of first instance are twenty-seven regional courts of appeal. Twenty-four of these tribunals are located in the larger provincial cities, one is in Paris, and two are in Algeria and Corsica respectively. Each of these courts operates in three or more sections, each of which is presided over by five judges. There is normally a civil section, a criminal section, and an indictment section, the last corresponding somewhat remotely to the American grand jury. So far as the facts in civil cases are concerned, the courts of appeals render final judgment. On questions of law, however, appeals may be carried to a supreme tribunal—the Court of Cassation.

The more serious criminal cases, appealed from the courts of first instance, are tried not by the Court of Appeals, but by a special Court of Assize. A session of the latter court is held every three months in each *département*, its presiding judge being drawn from the bench of the Court of Appeal of the judicial district in which the *département* is located, and the

representatives empowered to arbitrate labor disputes, with right of appeal in each case to a regular court of first instance. For a brief description of how these special tribunals operate, cf. the *Source Book*, II-116.

two associate judges from the local court of first instance. Only here in the entire French judicial system is the jury employed. Contrary to Anglo-Saxon practice, the French jury may render its verdict of guilt or acquittal by a mere majority vote, provided that when the jury splits six to six or seven to five, the three judges, if they are in unanimous agreement, may impose a verdict of acquittal. If the jury's verdict is against the accused, it may indicate whether there were extenuating circumstances. In the latter event, if the crime was first-degree murder, the judges are prevented from imposing capital punishment, but may inflict hard labor for life or for a term of twenty years.

The trial jury has been the target of severe criticism in France. It has been condemned by many observers as unsuited to the French temperament—as capricious and unreliable, as unduly severe toward offenses against property and overly indulgent toward “crimes of passion,” libel, and political offenses. On the other hand, while improvement in the method of selecting a jury is frequently demanded, so as to secure higher qualifications for jurors, the existence of the institution itself does not yet seem to be seriously menaced.

French criminal procedure differs markedly from Anglo-Saxon in other important particulars. Instead of indictment by a grand jury, the preliminary investigation of an accused person is conducted by an examining magistrate, or *juge d'instruction*. The public prosecutor presents all the evidence he can quickly assemble to this magistrate, who decides whether a *prima facie* case has been made out against the accused. If such is the decision, a searching inquisition of the accused and the witnesses is held privately before this judge. The counsel for the defense may be present at the proceeding. The entire record is sent to the court of first instance, if the offense is a misdemeanor, or to the indictment section of the Court of Appeal, if it is a felony. The judges composing this section then decide whether a “true bill” has been found against the defendant. If so, the accused may be said to have been found “tentatively guilty.” That is to say, he will have had an informal preliminary trial. In French eyes, the formal trial is conceived as giving him a second chance to prove his innocence before a jury of “twelve of his fellow citizens,” provided the charge is felonious in nature.



In the conduct of a criminal trial, the presiding judge does not act merely as an umpire. Far from that, he himself searchingly interrogates the prisoner from the bench, and in so doing may appear to be unfair to the accused. The latter has no constitutional right to refuse to take the stand. Only the judge may interrupt witnesses while they give their testimony. So loose are the rules of evidence, in terms of Anglo-American law, that hearsay may be admitted in the discretion of the court. No cross-examination of witnesses by attorneys for the State or the defense is allowed, although they may ask the president of the court to put certain questions to persons submitting testimony.

After all the testimony has been presented, the public prosecutor sums up the case for the State, followed by the final plea of the defense counsel. The latter may in turn be answered by the prosecution, but the defense is allowed to have the last word if it so desires. Instead of "charging" the jury, as is the practice in Anglo-American criminal cases, the French judge merely submits to the jury a list of questions which it is asked to answer by "yes" or "no."

On the whole, French administration of criminal justice is freer of technicalities than American. Greater discretion is left to the professionally trained judge. Trials are conducted with more expedition and there are relatively fewer appeals or mistrials, with the long delays that often accompany them in American practice. Nor is there any such abuse of bail as in the United States. Against these undeniable merits, however, must be set one tendency which runs counter to a historic Anglo-Saxon principle. This is the emphasis placed by the French upon the rights of society rather than upon the rights of the individual. The examining judge has the power to order the arrest of any person suspected of committing a penal offense, and keep him in custody from five days to a month.<sup>16</sup> This is a power susceptible of abuse by magistrates who feel that their best chance of promotion is to appear as vigorous upholders of law enforcement. In the light of modern criminology, moreover, the French system of penalties for criminal acts would seem to be unduly harsh and drastic,

<sup>16</sup> Prior to legislation enacted in 1933 and 1935, there was no limit to the judge's power to detain accused persons, who sometimes languished in jail for many months before being freed or going to trial.

especially the practice of sending prisoners to do hard labor in the penal colony of French Guiana. Nor does the legal requirement (dating from the sanguinary days of the Revolution) that capital punishment shall take the form of guillotining on a public scaffold, commend itself to modern humanitarian conceptions.<sup>17</sup> At the same time, it must be admitted that the problem of crime is on the whole more effectively handled in France than in the United States. The ratio of criminal acts to total population is considerably lower, while the number of inmates in French penal institutions is proportionately less than half the number in American prisons.

At various junctures reference has already been made to the Court of Cassation. The function of this supreme tribunal, sitting in Paris, is to review decisions of lower courts referred to it by either party or by its own chief prosecuting officer, the *Procuror-General*. It may render judgment "in revision" only upon questions of law. As the only nation-wide "ordinary" court, it serves as an instrument for the unification of jurisprudence. Doubtful and conflicting legal opinions arising out of decisions rendered by inferior courts are resolved by the Court of Cassation. If its conclusions are in any way contrary to the judgment of the lower court, that part alone of the decision is "broken" (*cassée*). The case is then returned to a court of the same grade for reconsideration in the light of the high court's verdict. In certain instances the Court of Cassation may revise judicial decisions *au fond*, as, for example, when new evidence is discovered, showing that a victim is alive, or that witnesses have been guilty of perjury. Under a law passed in 1895 for the reparation of judicial errors, a judgment in review may award the victim of a false conviction (or his relatives, if he is dead) pecuniary damages, which are paid by the State, subject to recovery from the civil party, informer, or false witness.

The Court of Cassation enjoys a prestige as great as that of the supreme court of any great nation. Appointment to its bench is the goal of every ambitious French judge. The Court is organized in three sections as follows: (1) a chamber of

<sup>17</sup> In 1937 a special commission appointed by the Ministers of Justice and Colonies recommended to Parliament that transportation to Guiana be abolished and more humane provisions for imprisoning and paroling convicts be adopted.

requests, which handles appeals in a preliminary way; (2) a civil chamber, which takes final action on civil cases submitted to it by the first chamber; and (3) a criminal chamber, which adjudicates all criminal appeals. The bench of the court comprises a general president, three section presidents, and forty-five other judges. It is this imposing corps of justices that has sole jurisdiction over the disciplining of members of the bench of inferior courts. No judge may be removed except by vote of the Court of Cassation in plenary session, following a solemn hearing on the charges.

One other striking difference between the French and Anglo-American judicial systems remains to be mentioned. In the former, both the civil and the criminal law have been systematically codified; in English-speaking countries, this is only partially the case. Explanation of the difference is to be found in the divergent legal history of the two communities. Although, like the English common law, French law was originally based to a considerable degree upon custom, the permanent impact of Roman law and institutions upon the history of France profoundly differentiated the legal development of the two countries. By the seventeenth century, the royal "ordinances" of the monarchy had built a superstructure of codified law whose domain extended throughout the country, leaving, however, a residue of local or regional law based upon customary usages. The French Revolution and Napoleon completed the process of codification. By the opening of the nineteenth century ancient variations of legal principles and procedure were unified into a few great national codes which have become collectively known to the world as the *Code Napoléon*. Modified and expanded by statutory change since that time, these codes today constitute a uniform body of law which all French students must learn in the law schools and which French judges have to interpret and apply in the courtroom. The major French codes, all dating from the first decade of the last century, are five in number: the Civil Code (1804), the Code of Civil Procedure (1806), the Commercial Code (1807), the Code of Criminal Procedure (1808), and the Penal Code (1810). The task of codifying labor law was begun early in the present century (cf. p. 261 *infra*).

Codified law presents certain definite advantages over the judge-made law of Anglo-Saxon countries. The former has

greater unity and symmetry, is more precise in its provisions, and, in theory at least, permits the courts to decide individual cases on their own merits without reference to precedents laid down in previous cases. But such advantages come at a price. Comprehensive legal codes lack something of the elasticity and adaptability that characterize case law. Unless the codes are frequently altered by Parliament, they may not keep abreast of changing economic and social relationships, or new ideas regarding the treatment of crime. Nevertheless, the French Civil Codes have exerted a far-reaching influence upon world legal development, not only in Continental Europe and Latin-America, but even in the Far East. What with a growing movement for the partial codification (or restatement) of the common law in England and many American States, a considerable rapprochement of the Anglo-American and French systems appears to be under way.

## CHAPTER VIII

### ECONOMIC *ETATISME*

*Direct* intervention by the French State in economic affairs is largely the product of the last fifty years. Throughout most of the nineteenth century the doctrine of economic liberalism dominated French political behavior. Representing a sharp reaction away from the mercantilism of the two preceding centuries, this doctrine is associated with the famous Revolutionary shibboleth of "*Liberté, Égalité, Fraternité*." Of these three, liberty, economic as well as political, has been cherished even more dearly than equality or fraternity. Economic liberalism, on the one hand, implied the security of private property and competitive enterprise, and on the other, the prohibition by the State of any and all organized groups, whether of employers or workers, that might interfere with the operation of *laissez-faire*.

In order to preserve economic liberty, the scope of official authority, so it was held a century ago, must be kept within "proper" bounds. The State might justifiably assume responsibility only for those economic activities which were vitally necessary to the nation and which, because of their peculiar nature, could not be supplied by private enterprise. Of this category of State enterprise, the postal service had of course long been the most conspicuous example. The maintenance of public highways represented a second type of activity for which the State alone, partly, to be sure, because of its historic relation to national defense, must be responsible.

Much later than in England, but nonetheless inexorably, technological change forced an expansion of these "proper" limits of State activity. As the nineteenth century drew to a close, a rival philosophy, which may be characterized as "social solidarity," began to assert itself. Social solidarity did but rationalize what was happening in the political world. The march of industrialism and urbanism was transforming the

"police" State into a "service" State whose chief criterion of success became its contribution to social and economic welfare—by tariff protectionism, by legislation for the protection of labor, by aid to private business when it got into difficulty, and by the public management of such utility enterprises as the telegraph, telephone, and railway.

The World War of 1914-18 and its economic aftermath gave to this emerging *étatisme* a tremendous impetus which it has not ceased to feel to the present day. During the course of hostilities, the regulatory arm of the State swept outward and forward by leaps and bounds. The Government fixed prices, distributed provisions, and requisitioned products. Offices of State virtually assumed control over production by monopolizing the disposal of raw material. Land was forced into circulation against the will of private owners. Strikes were prevented by the threat of recalling industrial workers into military service. Indeed, the Government stopped barely short of conscripting capital, as it actually did conscript manpower. Scores of new wartime administrative agencies were set up, and while many of them did not long survive the peace, some were retained, in modified form, as permanent mechanisms. The older Ministries of Public Works, Agriculture, Commerce, and Labor took on added responsibilities arising out of the far-reaching economic readjustments that faced the country after the War.

During the early 1920's these readjustments produced a succession of economic shocks whose intensity rocked the foundations of the French nation—inflation, agricultural dislocation, trade depression, and monetary devaluation. Then, following a temporary interlude of prosperity, came the impact of the recent world economic crisis, with agricultural distress, industrial stagnation, trade shrinkage, unemployment, deficit financing and monetary devaluations anew—in certain respects on a more devastating scale than ever. Just as "economic individualism" was forced in some degree to yield to "social solidarity" forty years ago, so, today, the advocates of a State-guided economy (*l'économie dirigée*) contend with increasing boldness that both of these social philosophies are inadequate. All three social concepts, as it were, now face one another in the French political arena. As we shall see later, the present-day State resorts to a wide variety of expedients in its effort

to stabilize the economic system—or, at the very least, to save it from collapse. These expedients include public subsidies, the provision of cheap credit, intensified restrictions upon imports, large-scale public works to stimulate employment, increasing regulation of private enterprise, the establishment of autonomous public corporations, experimentation with “mixed” types of private and public economic management, and the quasi-nationalization of certain key industries.

What will be the ultimate economic pattern is as yet beyond the range of prediction. But this much is certain: there will be no return to the *orthodox* economic individualism that prevailed in the nineteenth century. Nor are Frenchmen, habituated as they are to a broad distribution of home and land ownership, likely to find *orthodox* communism congenial. In all probability, the contours of the new economy will lie somewhere between these two extremes. In any event, this economy is certain to feel the hand of the public administrator, as planner, stimulator, and coördinator, moving along an ever-widening radius.

The purpose of the present chapter is to outline how the Government of the Third Republic has down to the present time endeavored to promote economic stability and national prosperity. While the task of presenting this material would be easier if the chronological approach were exclusively used, there is some advantage in treating economic *étatisme* in terms of its broad functional categories. Such is the method we shall follow. Those governmental activities designed primarily to contribute to social justice and the cultural welfare will form the subject-matter of a subsequent chapter.

### 1. *Transportation and Communication.*

*Highways and Bridges.* There is no better index to the changing scale of human activity than the techniques of transportation and communication. It was recognized as early as Roman times that an adequate system of land highways was essential for commercial as well as military purposes. Roman military engineers built the first “arterial” highways in what later was to become the territory of the French monarchy. Some of the principal national highways of present-day France follow the routes and rest upon the foundations laid by the Roman invaders. But most of the old Roman roads fell into

decay during the period of feudalism and the French monarchs of later centuries were obliged to build substantially a new road system. This was accomplished by the imposition of a special road tax (*corvée*) which entailed a certain number of days of labor on the roads each year, or the payment of its equivalent in money. The unfairness of the *corvée* came not so much from the general principle underlying it as from the fact that only the peasants, then virtually serfs, were obliged to do road work or pay the tax. Here was one of the grievances which the Third Estate swept away by Revolutionary legislation in the 1790's, a more equitable road tax taking its place. During the *Ancien Régime*, it had also been common practice to grant concessions to private individuals (or firms) to build roads and bridges, financial compensation (at a liberal profit) being exacted in tolls for years thereafter. Like the *corvée*, this toll system was in principle abolished by the end of the eighteenth century, although vestiges of it remained in operation on bridges for almost a hundred years more.

In respect to responsibility for their upkeep, the present-day classification of French highways differs but little from the system established by the *Ancien Régime*. There are three principal classes of roads: (1) the *routes nationales*, the construction and maintenance of which are assumed entirely by the central government; (2) the *routes départementales* (corresponding roughly to county roads in the United States), which are a charge on the budget of the *département*; and (3), the *chemins vicinaux et ruraux*, or back-country roads, for which the *commune* is responsible. Since 1830, when the national Ministry of Public Works was established, engineering operations on the national highways have been centralized in its Division of Roads and Bridges. For highway administration a "chief" engineer supervises the road mileage of each *département*. Under his direction "ordinary" engineers are assigned to handle road maintenance units in the *arrondissements*. A field inspectorate operating out of Paris coördinates and checks up on highway operations throughout the country.

Each territorial *département* maintains a highway administration and personnel of its own under the general authority of the prefect. Civil engineers from the national Ministry are frequently detailed to act as technical consultants to the departmental authorities. In over half the *départements*, the



maintenance of both departmental and rural roads is handled by the engineering corps of the Ministry of Public Works; in the others, mainly the larger and wealthier regions, a separate service is maintained.

From the standpoint of efficiency and economy, a unified system of highway administration is so definitely superior that it bids fair eventually to become the rule throughout the country. For the simple tasks of keeping the back-country roads and lanes in condition, however, it is still the practice for peasants to pay out their road tax by performing three days of road labor annually.

The power to open, classify, and reclassify highways is shared by the central authorities and the departmental councils—the former for the national roads, and the latter for the secondary and tertiary roads within their respective jurisdictions. The advent of the motor car and autobus, with their attendant traffic load, has resulted in a steady pressure upon the departments for financial aid to the *communes*, and still more, upon the national Treasury for subsidies to all local highway units. Although in principle highway costs are still distributed among the three levels of government for the three classes of roads, the financial burden is in fact being gradually transferred upward from locality to *département*, and then on to the national government. As might be expected, the financial difficulties of local areas during the recent depression years have greatly accentuated this tendency. In 1931 the entire responsibility for financing 40,000 kilometers of departmental and rural roads (out of a total of 340,000) was taken over by the central Treasury. Extensive grants for road and bridge improvement, including city streets, have recently also been made to local authorities as a part of a national program of public works for the relief of unemployment.

While France cannot boast of any such lavish lay-out of modern concrete highways as the United States or Germany, most of the major highways are hard-surfaced, kept in good condition the year round, and well marked. In no small measure the excellence of the French highway system is due to the admirable corps of State engineers that staff the Public Works Ministry. These government engineers all receive a rigorous basic preparation in the *Ecole polytechnique*, followed by con-

tinuation training in a special *Ecole des Ponts et Chaussées* operated by the Ministry itself.

*Inland Navigation.* France is blessed with an abundance of internal waterways. There are four major river systems—the Seine, the Loire, the Garonne, and the Rhône—into which innumerable tributary streams pour their waters. During the last few centuries these streams have been inter-connected by an extensive network of state-built canals. Totaling over 9000 miles in length, this inland waterway system is administered by the Navigation Division of the Public Works Ministry. Today the use of most of these waterways, including canal locks, is free of toll. While the volume of freight traffic they carry still represents a substantial portion of the total internal movement of goods, the railway and motor truck have in recent times somewhat reduced the economic importance of water transportation. The traveler's *penchant* for the picturesque may still be served by the hundreds of river and canal barges he sees silently gliding through the charming countryside; but they are less heavily laden than they used to be. Nevertheless, the State continues to spend considerable sums of money on projects for improving such important rivers as the Rhône and the Loire, and has recently begun the construction of a new canal which is to join the Rhine and the Rhône.

*Maritime Navigation.* In the domain of maritime transport the French State has had a double concern: (1) to encourage the development of a merchant marine adequate to the needs of foreign trade, and (2) to provide the navy with an auxiliary arm in time of war. These objectives are served in a number of ways. Shipping companies, such as the *Compagnie Générale Transatlantique*, have been accorded State subsidies and bonuses on various conditions. For example, the cost of building the palatial *Normandie*, which has recently shared with the British liner *Queen Mary* the speed record for transatlantic passenger service, could not have been borne by private capital alone. In total gross tonnage, the French merchant fleet in 1936 divided fourth place with the Italians. Among the fleets of European nations, only the British, Norwegian, and German had a larger tonnage. Fully a quarter of the French mercantile tonnage is aided by Government subventions for carrying oceanic mails.

A second service rendered by the Government to maritime transportation is the improvement of harbor facilities. Vast sums have been spent since the War for the purpose of modernizing such oceanic ports as Cherbourg, Le Havre, Marseilles, and Bordeaux, the cost being shared by the local authorities and the central Treasury. The engineering operations involved in these undertakings are handled by a special division of the Ministry of Public Works, but since 1920 harbor administration has been effected locally by quasi-autonomous authorities under boards of directors representing the elective local government councils, chambers of commerce, and maritime workers. While the budgets of these port authorities must be approved by the Ministry of Public Works, they are not subject to direct parliamentary control. The net tonnage of vessels entered and cleared through French ports has in recent years been greater than those of any other European country except the United Kingdom.

Other governmental activities affecting merchant shipping may be briefly mentioned. They include the policing of ships in port, the application of labor and insurance laws concerning French seamen, safety and sanitary regulations relating to seagoing vessels, the conclusion of international agreements for the protection of fishing rights, and the maintenance of special schools to train officers and technicians for the merchant marine. The importance of the task of administering all these services led in 1929 to the establishment of a separate Merchant Marine Ministry, but after 1936 it was reduced to its former status of an under-secretariat in the Ministry of Public Works.

*Postal, Telegraph, and Telephone Service.* In France the State began the business of transporting correspondence as early as the fifteenth century. At first this service consisted merely in carrying official dispatches by relays of horses organized along certain national highways. Gradually it expanded into a regular mail service which was operated by concessions granted to private concerns. By the following century the carrying of the mails became a State monopoly and has so remained ever since. After the Revolution the Government itself took over the operation of the postal service.

Four far-reaching developments which took place during the nineteenth century were to transform this primitive postal service into a vast public utility enterprise. The first was the

appearance of the railway, providing a much more rapid means of transporting the mails. The second was the invention of the postage stamp by the English official, Rowland Hill, as a result of which a uniform and moderate scale of charges for postal operations was instituted in 1848. The third development was the invention of the electric telegraph and the telephone; while the fourth was the establishment in the 1870's of the Universal Postal Union, making possible a tremendous expansion of international mail facilities.

Differing from its American evolution, the telegraph has never been privately operated in France. With its first appearance during the reign of Louis-Philippe it was made a State monopoly. In 1878 the State telegraph service was consolidated with the postoffice administration, which up to that time had formed a division of the Ministry of Finance. The combined service became a separate ministry from 1879 to 1888, but for forty years thereafter it constituted an under-secretariat attached alternately to the Public Works and Commerce Ministries. Since 1929 it has once more functioned as a separate government department. In the meantime the telephone industry, which began operation in 1881 as a private enterprise regulated under public franchise, had been acquired by the Government in 1889, thus producing the triple-form State service of the "P. T. T."

The P. T. T. requires a larger personnel than any other state establishment in France. Its 190,000 employees, scattered throughout the land, constitute a quarter of the entire national civil service (including the two old State railway systems and other "industrial" enterprises). With an annual budget of five billion francs, this far-flung public utility undertaking is managed by a director-general. A professional career official, he provides continuity from one "political" minister to another. Under the director-general a small headquarters corps of technicians and bureau chiefs supervise and inspect the work of the thousands of subordinate employees who operate a national network of postoffices, telegraph and wireless stations, and telephone exchanges. With a view to endowing the P. T. T. with a more flexible scheme of management, limited fiscal autonomy was granted to it in 1923. Since then its annual budget has been submitted as an "annex" to the regular State budget. With Treasury approval the P. T. T. may itself float bond issues for capital outlays. A de-

preciation and amortization fund was to be set up, together with a reserve fund that might be drawn upon when there were operating deficits or the need of replacing equipment prior to total amortization. Financial difficulties, however, have so far prevented the constitution of this reserve fund.

Operating revenues have usually been sufficient to cover operating expenditures and debt service, though small deficits occasionally have to be met out of the general Treasury. Parliament has given the Minister considerable latitude in determining rate schedules, but he must consult the Superior Council of the P. T. T. before putting rate changes into effect. This arrangement allows organized "user" and "subscriber" groups to submit their views on contemplated rate alterations.

As elsewhere, the scope of postal service in France has steadily expanded during the last half century. Today it embraces a parcel post system, facilities for registering and insuring letters, and arrangements for handling savings accounts of private individuals, as well as current checking accounts whereby business firms may make remittance for bills without incurring the inconvenience of purchasing postal money orders. Within the past decade an extensive air mail system has also been established.

How to improve the operating efficiency of the P. T. T. is a perennial question in France. Although it is popular to complain of bureaucratic officiousness and slowness on the part of the underpaid employees who handle letters and telegrams behind the postoffice counters, the telephone operator has come in for the greatest abuse from the public. For many years the French telephone service was notorious for its slowness and "wrong number" habits. The last decade, however, has witnessed such extensive technical improvements that telephone standards in the larger French cities, where automatic systems have been installed, now compare favorably with other European centers.<sup>1</sup> Paris, for example, is the only city in the world where one can dial his telephone and automatically secure a three-minute news bulletin of the latest events of the day.

<sup>1</sup> Yet the number of telephone subscribers remains comparatively small. In 1935 there were still less than 1,500,000, as against 15,000,000 in the United States for a population only three times as large.

*Radio Broadcasting.* The advent of the radio only fifteen years ago has everywhere given rise to a public communication problem baffling in its complexity. As a means of disseminating news and ideas, the radio is analogous to the press, the theater, and public platform. From the point of view of protecting free speech, it may logically be argued that the regulation of the radio should be predicated on the principle of "freedom of the air." The unique technical character of this remarkable invention, however, requires that use of the "ether" be scheduled by the allocation of wave lengths among competing broadcasting stations if chaos is to be averted. What is more, the radio is an instrument of such far-reaching educational and propagandist potentialities that the purposes for which it is employed become a matter of vital national and international import. If the control of broadcasting is left wholly in private hands, the recipients may, as in the United States, suffer from having cultural programs subordinated to the demands of paid advertising. If broadcasting is made a State monopoly or subjected to ironclad government control, which is the situation in such régimes as the U. S. S. R. and Nazi Germany, even worse evils of official censorship appear. Use of the radio is thus easily degraded to the level of indoctrinating the masses with an official party ideology. Either way it is a nasty dilemma for social statesmanship.

In France an effort has been made to escape both horns of this dilemma. The first broadcasting station, established in 1922, was operated directly by the P. T. T. administration in Paris. During the next few years several "regional" P. T. T. stations were set up in such provincial centers as Marseilles, Lyons, Bordeaux, Lille, and Toulouse. Simultaneously, the Government allowed a number of private stations to enter the broadcasting field. It was soon realized, however, that the old juridical principle of "liberty of communication" could not be fully applied to the radio. In 1926 a decree-law stipulated (1) that after five years the State should take over all private stations, with reasonable compensation to their owners, and (2) that in the meantime a plan should be worked out for controlling the programs of the State stations by "functional associations" representing local government authorities, the press, economic interests, and groups of writers and artists. Before this plan could be completed Parliament voted a new

law which provisionally authorized existing private broadcasting stations to continue operation, but prohibited the establishment of new posts. Nevertheless, authorization was subsequently granted to four additional private stations, one of which (Radio-Paris) was acquired by the State shortly thereafter. By 1936 thirteen non-governmental stations were engaged in broadcasting on French soil. These stations are owned by private corporations and run on a commercial basis, their principal source of revenue being radio advertising. As regards transmission of power and wave-length allocations, they are subject to technical control by the P. T. T. For the principal private stations, citizen commissions, consisting of specialists in music, the theater, and the press, advise as to the content of radio programs. Generally speaking, the broadcast of political propaganda is not permitted by the companies operating these stations. Topics of non-partisan civic interest may, however, be discussed on the air. From 5 to 10 per cent of the total program time is utilized for advertising.

In the meantime the State radio system has been technically expanded and brought under a unified plan of administration and financing. The P. T. T. now maintains three "national" stations situated near Paris, eleven "regional" stations located in the chief provincial cities of France, and one colonial station. It has set up a technical laboratory for experimentation in methods of improving radio facilities. The administrative direction of the fifteen State stations is handled by a special division of the P. T. T. coordinate with the older postal, telegraph, and telephone divisions.

The State broadcasting system is financed chiefly by a tax on receiving sets ranging from 15 to 200 francs a year. This tax is really a license paid by listeners for permission to operate a "receiving station." The proceeds, which amounted to over 150 million francs in 1936, have thus far amply covered operating costs. On the other hand, despite recent efforts made by the Government to stimulate the purchase of radios by the general public, the total number of receiving sets remains proportionately smaller in France than in Great Britain or the United States.<sup>2</sup> The vast majority of French rural homes still lack radio facilities.

<sup>2</sup> In 1937, 3,200,000 receiving sets were reported in France, in comparison with 7,000,000 in Great Britain and over 24,000,000 in the United States.

Nor has the crucial question of how broadcasting time should be distributed for political purposes been resolved to the full satisfaction of minority groups. "Time" on the air is not sold for political broadcasting. In principle, the rule is that during political campaigns all parties have the right to equal quotas of time without charge. Since, however, the Government may schedule the hours and days of political broadcasts, the parties it happens to represent appear to have a certain advantage over opposition groups in the selection of time on the air. Complaints are also heard that the Government of the day has occasionally utilized the State radio so as to magnify popular support and minimize criticism of its policies.<sup>3</sup> Whatever may be the justification for these charges, the fact remains that French political leaders have in recent years habitually resorted to nation-wide radio appeals when critical situations have to be met. Premier Doumergue used this means in 1934 to explain his constitutional reform proposals; Premier Sarraut broadcast an appeal to the nation "to keep calm" when Hitler's troops occupied the Rhineland in March 1936; and Premier Léon Blum exhorted the French people to back the labor policies of his new Government during the "sit-down" strike crisis of June 1936.

Aside from the possibility of temporary advantage for political groups composing the Government, the composition of radio programs transmitted by the State stations is controlled in a broadly democratic manner. For each broadcasting station there is a "council of direction" consisting of three classes of members: ten appointed by the Minister of Communications to represent the public services; ten chosen from groups representing writers, artists, musicians, the press, radio equipment sellers, etc.; and ten elected by the association of receiving-set owners in the area covered by the station. Under the general supervision of the national Ministry, this council is empowered to engage artists and entertainers and within

<sup>3</sup> *Le Temps* for 29 July 1936, objected that in a news review given by a Paris State station the most critical editorial passages from the opposition press were deleted or passed over in silence, while the Popular Front journals received generous attention. Premier Blum was reminded of his previous criticism of Doumergue's and Laval's utilization of the radio for "partisan" purposes. Before the elections of 1936 no State station ever mentioned *L'Action française* or *l'Humanité* in its press communiqués. Incidentally, the French press, not unlike the American, is beginning to complain of "unfair competition" from these radio news broadcasts.



limits to set the program policy for the station concerned. A program secretary appointed by the Minister for each State station acts as liaison agent between the central authorities and the regional council, especially as regards the scheduling of broadcasts whose coverage is national or international.<sup>4</sup>

On the larger aspects of radio policy the central authorities are advised by a Superior Broadcasting Council consisting of six sections, each of which is entitled to a maximum quota of fifteen members. These sections are organized so as to represent (1) literature, (2) music, (3) science, (4) social and economic questions, (5) news services, and (6) education, sports, leisure and tourism. The members are appointed by the Ministry for two year terms, one-half being renewed annually. This Council is intended to serve as an over-all research, planning, and stimulating agency. It is charged in particular with suggesting ways and means of developing the educational and recreative possibilities of radio, including the furtherance of international understanding. The Council is authorized also to advise the Ministry on the allocation of funds among the different categories of broadcasting represented in the Council's make-up. Between sessions of the full Council, which are held only upon call by the Prime Minister, a small standing committee acts in its behalf. At all meetings of the Council, its sections, or its standing committee, the Director of the Radio Division of the P. T. T. must be present in person, in order that the administrative point of view may not be lost sight of.

What would ultimately be done with commercial broadcasting companies remained uncertain in 1937. Presumably there will be no further expansion of private radio facilities. If the principle laid down in existing legislation is adhered to, all the private stations will eventually be acquired by the State. But it is not impossible that the present dual system may continue indefinitely, since an increasing portion of the French public appears to believe that governmental and private broadcasting should co-exist as *complementary* instruments of radio communication.

<sup>4</sup> Decree of 27 Oct. 1936. The daily news résumés of the French radio system are among the best in Europe, each type of information (foreign affairs, home politics, art, sports, etc.) being presented by specialists.

*Railways.* French national policy in the field of railway transportation, while having behind it a much longer history than radio policy, reveals a similar tendency to experiment concurrently with regulated-private and public operation. Built largely with British capital, the early French railways were granted State concessions in the form of contracts running over a long period of years. By legislation enacted in 1842, Parliament designated the routes that the main railway lines were to follow, with a view to connecting Paris and all the important provincial centers as directly as possible. The State was to acquire rights of way, in return for which the companies were to meet the costs of construction. As it turned out, ruinous speculation in railway securities soon led the Government to force the consolidation of railway franchises into six major systems. But it remained difficult to secure private capital for the construction of secondary lines. In 1859 the State came to the aid of the companies by advancing credits on condition that it be permitted to share in all operating profits above a fixed sum. Railway development still lagged and in 1878 the Government decided to construct exclusively with public funds a system of its own. It soon became apparent, however, that the completion of this State project would necessitate partial consolidation with certain private lines. Five years later a series of new agreements were accordingly entered into with the private companies. By these agreements the State guaranteed a minimum dividend to railway stock holders and the payment of interest and amortization charges on bonds, with the proviso that it be reimbursed as soon as railway income permitted and that it receive two-thirds of all "excess" profits thereafter.

This régime continued in operation until after the World War. The situation, as it had developed by that time, may be summarized as follows: By various contracts of concession the State had retained control of railway rates and finance and at the same time made a direct investment in railway plant. Furthermore, it had "always reserved the right to repurchase the lines at the expiration of the concessions, in line with the theory that the private companies were simply operating public services under certain delegated powers. . . . Moreover, from the beginning, monopoly of railway facilities was considered more economical and efficient (given proper regu-

lation to prevent abuses of the monopoly) than free competition. This notion has also emerged in the United States and Great Britain, but only after decades of experience.”<sup>5</sup>

When the French Government decided that it was desirable to acquire a given railway system and operate it as a State enterprise, the transition was a relatively easy matter. A step in this direction had been taken as early as 1878, when numerous small and unproductive lines were purchased by the State. Thirty years later the *Chemins de Fer de l'Ouest*, then operating at a deficit in Normandy and Brittany, was bought and fused with the earlier *Etat* system. With the return of Alsace-Lorraine to France in 1919, the Government took over the operation of the railway system of the two recovered provinces. By 1921 there were thus two State-operated and five major privately-run systems. These seven systems, comprising 42,000 kilometers of track, accounted for 97 per cent of the total freight business, the other 3 per cent being handled by 20,000 kilometers of short local lines operating under departmental and communal franchise.

From 1883 to the World War, the five private systems managed to make a small profit, although the *Etat* lines were in chronic deficit. The War brought financial disaster to all French railways. Military necessity subjected them to a rigid joint control by the Ministries of War and Public Works. Their revenues declined to a point where heavy operating deficits became the rule. Despite the granting of substantial increases in civilian freight and passenger rates, the financial situation went from bad to worse, with the result that a new convention was negotiated by the Government and the railway companies and ratified by law in October 1921.

This convention effected important changes in the relation of the State to the railways. While each system was allowed to keep its own internal organization, a Railway Managing Committee, composed of officers of private and State lines, was set up as a common executive body, and a Superior Railway Council, representing the roads and the public, was established to advise the Minister of Public Works on rates and other questions. The latter official was authorized to approve rates higher than the maxima fixed in existing conces-

<sup>5</sup> H. F. Dougall, "Railway Rates and Rate-Making in France since 1921," *Journal of Pol. Economy*, June, 1933.

sions, although rates were to remain uniform on all lines; conversely, he could lower rates when it was deemed desirable in the national interest, even though such action be contrary to advice given by the Superior Railway Council. A common fund was established as a Treasury account into which the excess revenues of the private and State lines were to be pooled, so that the deficits of unprofitable companies might be covered by the surpluses of more prosperous lines. "Should economic circumstances prevent the raising of rates to accomplish this purpose, the railways might borrow or the Treasury advance the required sums, to be repaid, however, before the end of two years."<sup>6</sup>

Under this régime the French railways incurred aggregate annual losses until 1926, when business conditions made possible sufficient rate increases to produce a profit. The general prosperity of the nation during the three years following monetary stabilization was paralleled by favorable conditions in the railway industry. Because of the world economic crisis which struck the French national economy in 1930, along with increasing motor competition, a period of steadily mounting railway deficits began that year and has continued ever since. By 1937 these deficits had reached the formidable figure of 26 billion francs and become a terrific drain on the national Treasury. The situation was aggravated by three special factors. One of these was the insistent claim advanced by organized railway employees for higher wages—a claim vigorously championed in the Chamber of Deputies by Socialist members. A second difficulty came from the increased costs of operation brought about by the application of the eight-hour work day in 1918. In the third place, there was powerful opposition to increases in passenger rates from such large groups as State employees and "large families," who were the beneficiaries of low-priced ticket privileges.

As railway deficits continued to pile up year after year, the Socialist and Communist parties, as well as organized labor, argued with growing vehemence that nationalization was the only feasible solution of the railway problem. Following the Popular Front electoral victory of 1936, this issue was pressed in the Blum cabinet. But the Radical Socialist wing of the Government, perhaps fearing the political repercussions that

<sup>6</sup> *Ibid.*

might result from adding 500,000 railway employees to an already topheavy State bureaucracy, refused to accept an outright nationalization scheme. It was not until after Blum and Auriol had been succeeded by Chautemps and Bonnet that a compromise was reached to which both Socialists and Radicals were willing to give their support. This plan was promulgated in August 1937—just prior to the expiration of the emergency financial powers of the Chautemps Government.

Under the reorganization of 1937, all the major systems were to be "merged" by January 1938 into a single national railway company in which the State would be the majority stockholder. The directing board of the new company will include six representatives of the railway employees and the general public, twelve of the various railway systems, and fifteen of the Ministry of Public Works. The private companies are to transfer to the new national corporation all of their assets except investments in hotels and other non-railroad properties, and receive in return an annual sum equivalent to the statutory interest and a guaranteed dividend on their stocks and bonds, as well as forty-nine per cent of the share capital of the new company. While considerable autonomy in management is left to the individual systems, the amalgamation plan calls for reduced salaries to railroad executives and the adoption of various overhead economies made possible by unification. When its concession expires in 1982, the entire property of the new company will pass into the hands of the State without further compensation.

In the main, the semi-nationalization scheme was well received by labor and railway stockholders alike. The former had gained a voice (albeit a minor one) in management, while the property interests of the latter were given ample protection. The prospects for railway solvency were aided by a second decree providing for coördination of automobile and truck transport services and stricter regulation of river, canal, and aviation traffic. With the formal assertion of State control, moreover, it should be easier to effect necessary advances in railway rates.

*Aviation.* While the development of French civil aviation has been substantially subsidized by public funds, the ownership and operation of air lines have remained in private hands. The State, however, regulates the licensing of pilots, the air-

worthiness of planes, the location of landing fields, the marking of routes, flying over cities, and passenger and freight rates. Through the Air Ministry, established in 1928, it also conducts scientific and industrial research pertaining to the development of aviation and operates a special school for the training of pilots and mechanics. A Superior Council of Air Transport, composed of representatives of the managerial and employee personnel of the private companies and other technical experts, must be consulted by the Air Minister on all matters having to do with the organization and financing of air lines.

State aviation subsidies have taken various forms. The most important are air mail contracts given by the P. T. T. administration to private aviation concerns. In 1928, over 80 per cent of the receipts of "Aeropostale," flying the mails across the south Atlantic, consisted of direct subsidies. Bonuses in proportion to traffic volume have also been extensively granted to commercial air lines. While few of the latter have thus far been able to operate profitably without financial aid from the State, the amount of subsidy is being diminished as air traffic expands. Under the subsidy regime the number of passengers annually carried has increased from 1,379 in 1920 to nearly 170,000 in 1937, while freight traffic has expanded from 30,000 to over 1,700,000 tons.<sup>7</sup> Not only are all the major cities of France now connected by air with Paris and the rest of Europe, but regular mail and passenger service to French North Africa, Indo-China, and South America has been established by the joint endeavors of French private capital and State subvention. In 1933 French maritime aviation was unified under a single "mixed" corporation—*la Compagnie Air-France*.

The future of French civil aviation is closely related to the fate of military aviation. At Geneva the French Government has time and time again advocated the internationalization of all civil aviation in Europe as the only effective means of controlling the diversion of commercial air equipment to military uses. Although international agreement to this end

<sup>7</sup> Statement by Air Minister Pierre Cot at the inauguration of the new modernized facilities of Le Bourget field (Paris), which became in 1937 the largest international airport in Europe. *New York Times*, 13 Nov. 1937.

is outside the range of possibility for the time being, the Blum Government of 1936 undertook the progressive nationalization of the French armaments industry. Under the terms of this legislation, all French firms manufacturing airplanes have been consolidated into six "semi-autonomous" national companies in which the State holds a controlling interest. These companies, although controlled by officials of the Air Ministry, are in effect directed by the same personnel that managed the airplane works prior to their expropriation. It is not improbable that this action may in the near future pave the way for the operation by the State of a unified national aviation system to serve both civil and military needs.

## 2. *Tariff and Monetary Policy.*

The oldest form of protective legislation of an economic character is the customs tariff. French tariff policy has oscillated through several fairly distinct phases. The general trend, however, has been toward increasingly complete protectionism. Immediately prior to and during the first part of the French Revolution, free trade ideas were in the ascendency. The Revolution itself was partially a culmination of forces which had demanded the destruction of the restrictive merchantilist system of the 17th and 18th centuries. In 1790 the National Assembly, by abolishing the mass of provincial tariff regulations that had accumulated for generations, made a relatively "free trade" possible inside the country's borders. Uniform and moderate tariff rates were simultaneously imposed upon imports. This comparatively liberal régime continued until the outbreak of foreign war in 1793. From then until the advent of the Second Empire in the mid-nineteenth century, French commercial policy shifted generally in the opposite direction. Hostility toward Great Britain and the emergence of French industrialism called for the adoption of a protective system. Despite some tendencies toward lower rates during the period of the Bourbon Restoration, a growing pressure from "infant" industrial interests kept the country protectionist.

Under Napoleon III, however, there was a definite swing back toward tariff moderation. This reaction coincided with the movement for the repeal of the corn laws in England,

for which the French Emperor, a strong admirer of Peel, evinced genuine sympathy. In 1860 France concluded with her Trans-Channel neighbor the famous Cobden treaty. This ushered in a series of similar commercial agreements with other countries. From then until about 1880 French tariff rates remained relatively low. By unconditionally applying "the most favored nation" principle in her commercial treaties, France gave a great impetus to the generalization of liberal tariffs throughout the Continent.

But a revival of protectionism was not long in manifesting itself. This reversal of the tariff pendulum was accentuated by the severe depression that struck French agriculture during the later 1870's. Increasing competition from foreign food stuffs, together with the blight of the vineyards wrought by phylloxera, turned French farmers into ardent champions of protectionism. Most of the liberal commercial treaties were accordingly allowed to expire early in the eighties, and domestic legislation substantially raising tariff duties on manufactured products was enacted. During the next two decades, protective duties were extended so as to cover all agricultural products. In 1892 protectionism was further systematized by the adoption of two levels of duties—maximum and minimum. The lower level was extended to all countries not discriminating against French goods—which, as it turned out, meant every European state except Portugal, as well as Canada, Japan, and most of Latin-America. By the turn of the century, agricultural as well as industrial interests believed so thoroughly in the virtues of protectionism that a campaign for a general increase in the rate structure began anew. This culminated in the Tariff Act of 1910, by which minimum rates were substantially raised, the differences between the maxima and minima widened to an average of 50 per cent, and many additional articles subjected to duty.

In comparison, however, with what was to happen later, the French pre-War tariff system remained fairly moderate. In 1913, for example, the aggregate revenue realized from customs duties amounted to only 9.5 per cent of the value of total imports. French foreign trade steadily expanded during the generation prior to the War. Although the balance of trade in goods remained unfavorable, the difference was easily made up by income from extensive foreign investments aggre-



gating in 1914 almost \$9,000,000,000, only Great Britain, with \$19,500,000,000 worth of capital abroad, then surpassing France as a creditor Power.

The World War drastically upset the economic relations of France with the outside world. As early as 1916, her war-burdened budgetary situation gave rise to a comprehensive policy of import restrictions by government license. As prices rose and the exchange value of the French franc fell, it became necessary to impose higher tariff rates on a specific basis and prohibit the importation of luxury articles entirely. With the coming of peace, while licenses were abandoned, special protection against the flood of goods from countries with rapidly depreciating currencies, such as Germany and Belgium, was provided by a system of "coefficients" which could be flexibly and immediately applied by decree to *specific* tariff duties. In 1921 *maximum* tariff rates were raised until they almost quadrupled the *minimum*. For some time following the War, use of most-favored-nation principle in commercial tariff bargaining was completely abandoned, but in the new agreement concluded with Germany in 1927 it was revived in conditional form and has been so employed since that time.

The course of French tariff rates continued upward until the franc was stabilized *de facto* at one fifth of its old par value in 1926. In monetary terms, the general level of specific duties had by then been multiplied three to five times over what they were at the close of the War. With the negotiation of new commercial treaties with Germany, Switzerland, and Belgium (1927-28), French tariff policy appeared to be entering a period of stabilization. The country, it seemed, was at last recovering from the effects of the War and the monetary inflation. By 1929 the flow of foreign trade both ways considerably exceeded its pre-War value in terms of the 1913 franc, while the unfavorable balance of commodity trade was relatively smaller than at the earlier period.

This period of commercial prosperity proved, however, to be only a brief respite between war liquidation and new economic disaster. A veritable flood of goods from countries once again "off gold" menaced the French economy afresh. Determined, wisely or not, to protect the franc from a second devaluation, the Government in 1931 not only imposed a surtax against "dumping" from depreciated-currency coun-

tries, but inaugurated a system of "quota" restrictions by which imports could be quantitatively limited. Two arguments were advanced in support of this drastic type of trade barrier: (1) that foreign exchange values were changing so rapidly that the ordinary procedures of tariff revision could not give quick enough relief, and (2) the alteration of rates covered by international commercial agreements would involve tedious negotiation. Once inaugurated, the French quota system was rapidly broadened so as to cover most of the major articles of import—coal, wood, grains, wines, fruits, sugar, fish, and industrial products. Inspired in part by the French example, some thirty other countries adopted quota arrangements. Together with the exorbitant American tariff legislation of 1930, these restrictions on imports undoubtedly helped to intensify the general business depression.

To appreciate fully the motivation behind recent French trade policy, it is necessary to remember that no French cabinet during the period 1931–36 dared to propose another monetary devaluation. The economic and psychological scars left on the French body politic by the devaluation of 1926–28 were not yet healed. Except for a few isolated individuals, the national political leadership, Right and Left, opposed what probably would then have been an effective surgical remedy for French as well as all European commerce. As it turned out, the determination to maintain the gold value of the franc, when London and half the world had left the gold standard, made a drastic restriction of French imports inevitable—so far out of line were French domestic prices with the rest of the world.

By the time a new devaluation was finally resorted to in October 1936, its beneficial effects proved disappointing. Huge budgetary deficits, brought about by sagging trade and heavy outlays for social services and rearmament, had in turn caused French capital in large amounts to take flight abroad. The confidence of the business community was undermined. Thus even after the tri-partite monetary accord of September 1936, which the Blum Government negotiated with London and Washington, French business did not markedly improve. "Further liberalization of import restrictions was extremely difficult to effect, for industry and agriculture were clamoring for additional protection to compensate for rising costs of

production.”<sup>s</sup> Although a slight cut in tariff duties was ordered shortly after devaluation, the old rates were restored less than a year later by Finance Minister Bonnet.

By the fall of 1937, as a result of another monetary devaluation in July, evidences of some improvement in French foreign trade were noticeable. Financial confidence appeared to have returned and the trend both of exports and imports was once again upward. A reciprocal trade agreement concluded with the United States in 1936 was expected to help French exports. But with a new business “recession” under way in America and the armaments burden growing heavier all the while, the French trade outlook for 1938 did not appear promising. Indeed, the adverse balance had again become so large by May and the exodus of capital so great that Bonnet’s “floating franc” gave way to Daladier’s “re-devalued” franc now worth less than three American cents.

So long as most of the outside world bows before the god of economic and military national self-sufficiency, it is too much to expect that France, a country largely dependent upon a luxury goods market for her commercial prosperity, can regain her former trade position. In 1875 her share of the total international trade of the world was 11.6 per cent; by 1914 it had fallen to 7.8 per cent; in 1936 it stood at 5.7 per cent. This steady decline may be taken as a rough measure of the increasing competition for foreign markets which France now has to meet. Thus it is hardly surprising that some of her national leaders, of conservative as well as radical leaning, are now tempted to consider, as an alternative path to economic stability, the wisdom of a “closed” national economy in which domestic production would be “ration-alized,” a rigorous control over foreign exchange set up, and imports reduced to a minimum. The groups advocating this alternative are as yet in the minority, but it is not impossible that the impact of another major war or prolonged economic slump might permit them to triumph over the adherents of international economic “liberalism.”

<sup>s</sup> J. C. de Wilde, “The New Deal in France,” *Foreign Policy Report* (New York, Sept. 1, 1937).

### 3. *The Promotion of Agriculture.*

In a country where for centuries the cultivation of the soil constituted the principal source of economic wealth, it might be expected that the State would evince an older and stronger interest in promoting agriculture than in aiding manufacturing. Such has been the case in France. A full generation prior to the establishment in 1881 of the Ministry of Agriculture, Parliament took cognizance of the importance of allowing French farmers to organize locally for the purpose of presenting their needs to the public authorities. While this early attempt to encourage the formation of organizations of this sort (*chambres consultatives d'agriculture*) proved abortive, agriculture steadily developed as an "interest group" during the next half century. The establishment of a central government department came as a result of demands for State assistance from the French peasant. Through the scientific services set up in the Ministry of Agriculture, the Government has increasingly endeavored to improve methods of cultivation and intensify farm output. It has not, however, been easy to wean the peasant away from his rudimentary agricultural techniques, and unit productivity still remains relatively low. In no small part the low output has been due to the law of equal inheritance which keeps farm land divided into exceedingly small holdings.<sup>8a</sup>

Since the turn of the century, the dissemination of agricultural science has made more encouraging headway, what with the enlargement of the *Institut National d'Agronomie* (set up originally in 1876) and the establishment of three national agricultural schools at Grignon, Montpellier, and Rennes, and the *Ecole Nationale d'Horticulture* at Versailles. Crop-reporting has also been greatly improved by means of the *Office de Renseignements Agricoles*, which was created in 1902. Another division of the Ministry of Agriculture regulates the use for agricultural purposes of forest lands belonging to the public domain and aids in the conservation of private timber

<sup>8a</sup> In an effort to check further sub-division of farm property and rural depopulation, the Government decreed in July 1938 that henceforth all inherited farms shall be kept intact and entrusted to the oldest son, who will have ten years in which to compensate the other heirs for their share in the estate.

resources and the development of irrigation.<sup>9</sup> Since the World War, the State has taken steps to encourage rural electrification by granting direct financial aid.

A more effective local organization of farming interests was initiated in 1924 when the power to subsidize or create services of general utility to agriculture, such as land banks, technical schools, warehouses, and laboratories, was conferred upon *chambres d'agriculture* set up in each *département*. This Act likewise authorized the creation of "agricultural offices," composed of three members elected by the general council of the *département* and three chosen by the *chambre d'agriculture*. Regional offices were to coordinate the activities of the local offices, all to the end of intensifying farm output by better selection of seed, the proper use of fertilizers, and improved breeding of stock. Upon approval by the regional office and the Minister of Agriculture, local programs could secure financial aid from the central Government.

Forty years ago the State inaugurated the policy of making cheap credit available to farm-owners. Legislation initiated in 1899 has put at the disposal of rural credit associations various State funds which may be lent at no or reduced interest, and has facilitated the acquisition of peasant proprietorships by grants of long-term credits to individuals. "At the apex of this system is the national bureau of rural credit (*Office national de Crédit agricole*), an autonomous state organization, the functions of which had previously been performed by a division of the Ministry of Agriculture. It is the national bureau that receives directly from the State grants of credit that eventually filter through to the regional and then to the local organizations."<sup>10</sup>

So long as France was obliged to import even the smallest part of her bread supply, the price of wheat could be maintained at a profitable level by a protective tariff policy. French farmers were thus sheltered against outside competition and ruinous prices. So protected, they "expanded production to take the place of imports, and eventually produced a surplus (1932-34) which made them want to export grain into a

<sup>9</sup> Of the 8,000,000 hectares of forest land in France, 1,000,000 still belong to the State and 2,000,000 to the *départements* and *communes*.

<sup>10</sup> Cf. W. F. Ogburn and W. Jaffé, *The Economic Development of Post-War France* (New York, 1929), p. 500. By permission of the Columbia University Press, publishers.

glutted world market while depriving the native consumer of the benefits of cheap food.”<sup>11</sup> Unemployment and falling wages in industry aggravated this situation by reducing the home market, and farm prices shrank to unremunerative levels. In desperation the Government attempted in 1933 to set a minimum price for wheat; but widespread “bootlegging” made the law so ineffective that it was soon repealed. The next attack upon the problem took the form of restricting production and regulating the marketing of wheat. The Government agreed in 1934 to absorb the entire wheat surplus, which was in part to be “denatured,” in part stored, and in part sold abroad, even if at a loss. The cost of this control scheme was met by increases in milling taxes and contributions from growers, who were forbidden to sow more wheat than in preceding years.

It soon became clear that such a plan, even though it could be adequately financed, had little chance of achieving the objective of a stable and profitable wheat price. Consequently, when the Popular Front came into power, a more comprehensive approach to the problem was undertaken. Underlying the new legislation were two assumptions: (1) that the prosperity of agriculture depended ultimately upon increasing the domestic consumption of food, and (2) that consumers should therefore have a voice in determining wheat and bread prices. With this end in view, a National Wheat Office was set up in August 1936 with a governing council which includes twenty-nine representatives of wheat farmers, nine from labor unions and consumers’ cooperatives, nine middlemen (millers and merchants), and four government officials. This central Office has supervision over practically every phase of wheat production and distribution: a monopoly of import and export operations; the power to fix the price of wheat, flour, and bread; direct control over credits advanced to wheat growers; and general marketing operations. Financially, the Wheat Office operates under the control of the Finance Ministry; for purposes of technical administration it is attached to the Ministry of Agriculture. Under the aegis of the Central Council of the Wheat Office, local committees are similarly established to advise the Council, allocate wheat sales, and facilitate

<sup>11</sup> Herbert Heaton, *The Economic History of Europe* (New York, 1936), p. 458.

coöperative marketing. Each June the Central Council is required to make a general estimate of the wheat crop and determine the amount each producing farmer may sell. In August, after examining the reports from local committees, the price is set by a three-fourths vote of the Council, account being taken of the size of the crop and the average price of 1911-13, in relation to the cost of living. Agricultural co-operative organizations purchase and store the harvested wheat in conformance with rates set by the Central Council. In order to encourage the development of these cooperatives, the State grants them subsidies equal to a third of the cost of constructing warehouses and advances loans for immediate payments to small producers. By February 1937, so the Minister of Agriculture reported, the number of wheat co-operatives had doubled.

The financing of this novel experiment in economic control is derived from (1) a progressive tax on production, (2) a proportion of the customs duties on wheat imports, and (3) a small tax on all wheat handled. The income from (1) and (2) is intended to finance exports in years when there are surpluses, while the yield of (3) is used to defray the administrative expenses of the Central Council and departmental committees. Overproduction is discouraged by the provision that if a farmer exceeds his "normal production," the excess may be bought only at a rate lower than the national price.

During the first year of its operation, the Wheat Office functioned successfully. Since, however, the harvest of 1936 was so poor that there was no export surplus, this can hardly be regarded as a complete test of the plan. Even in the absence of official control, the free price of wheat might have risen above the official level. Nor did the new wheat legislation appear to reduce processors' margins, the price of bread rising from August 1936 to May 1937 proportionately to the increases allowed in price of wheat. What gives promise that the Wheat Office will help to achieve a more stable and remunerative price for the grower, without at the same time exploiting the consumer, is the general acceptance of the control plan by the city workers—as their contribution to "social solidarity."

As originally formulated, the Popular Front program for agricultural revival called for analogous market controls over

all farm products, including milk. It further envisaged the establishment of insurance against agricultural hazards, legal protection to the small proprietor against further division of land-ownership as a result of the equal inheritance laws, the speeding up of rural electrification, and measures to encourage the mechanization of farming. The pause in "social reform" necessitated by the national financial crisis of 1937-38 has delayed, at least temporarily, the realization of the rest of this agricultural program.<sup>12</sup>

#### 4. *Aids to Commerce and Crafts.*

Paralleling the State's efforts to assist agriculture may be noted a variety of activities designed to aid mercantile concerns, small-scale entrepreneurs, and independent craftsmen. Despite the recent advances of French "big business," nearly half of the private industrial and commercial enterprises of the country are still operated by single individuals, while only three per cent employ more than ten workers. Including some 2,000,000 artisans and craftsmen working on their own account, these lower "middle" classes constitute probably sixty per cent of all voting Frenchmen.<sup>13</sup> Even the Socialist and Communist leadership is at last beginning to realize how essential it is to win this *petite bourgeoisie* to the cause of the proletariat if the latter is ever to achieve success. Small wonder, then, that whenever the economic security of the small business man or artisan is menaced, Parliament dare not resist his appeal for aid.

As early as the eighteenth century, the State officially recognized the utility of "chambers of commerce" as intermediaries between individual business men and public officials. Since the Revolution the composition and functions of these bodies have been elaborated by successive acts of Parliament. In each *département* there must be at least one *chambre de commerce*. This is accorded the status of a "public establishment" by national decree, issued upon the proposal of the Minister of

<sup>12</sup> It will be obvious to any one familiar with the agricultural policy of the Roosevelt New Deal that, in its general outlines, this French program is similarly inspired.

<sup>13</sup> So estimated by Maxime Leroy in his brilliant exposé of *Les Tendances du Pouvoir et de la Liberté en France au XX<sup>e</sup> Siècle* (Paris, 1937), pp. 17-21.



Commerce after consultation with the municipal and departmental councils concerned. The membership of each *chambre de commerce* is elected by all the business men of the area in the same manner as the commerce courts referred to earlier. The size of the chambers varies from nine to thirty-six members, depending upon the commercial importance of the community. The public authorities are required to secure the opinion of the chambers on a variety of matters before official action is taken, to wit: the authorization of local stock exchanges, the imposition of certain types of local taxes, the utility of local public works, and the regulation of local trade practices. By a sort of devolution of authority, the *chambres de commerce* may administer for the business communities they represent such enterprises as harbor improvements, docks, warehouses, and industrial museums. Their budgets are the beneficiaries of a special surtax on business patents, along with the net proceeds of any commercial enterprises the chambers may operate.

So valuable had these "auxiliary" agencies become to the Government's conduct of the World War that in 1917 the Minister of Commerce undertook to federate the local chambers, then nearly 150 in all, into regional groups. Little by little this step was accomplished, and by 1921 eighteen regional organizations were actively functioning. By this experiment in "economic regionalism" it was hoped to bring the State and the business community into a fruitful voluntary coöperation for the re-vitalization of the economic and civic life of *provincial* France. Subsequently, the presidents of the local and regional chambers formed a national association.

An interesting by-product of this type of coöperative activity was the creation in 1898 of a semi-autonomous National Office of Foreign Commerce. Since its re-organization in 1919, this agency has been administered by a director, assisted by an advisory council which includes the President of the Paris Chamber of Commerce and four members appointed by the National Association of Presidents of Chambers of Commerce. As its name suggests, the function of the Office is to promote French export trade. It maintains in leading foreign cities a staff of commercial attachés and agents who are recruited from applicants having extensive business or administrative experience abroad.

Space permits only passing reference to still another manifestation of economic functionalism which has received the blessing of the State. The establishment of local *chambres des métiers* was authorized in 1925 for the purpose of more closely articulating the interests of independent artisans. These organizations submit opinions to the public authorities on questions affecting craft interests, participate in the regulation of apprenticeship, and are represented on the departmental committees for technical education.

During the recent depression period the Government has accorded emergency financial assistance to French commerce. Temporary loans have been made available on easy terms to tradesmen and small-scale entrepreneurs faced with bankruptcy, in order that they might "carry on." By granting legal moratoria on mortgages, rents, and other business debts, the State has further revealed its solicitude for what has well been called the "bulwark" of French democracy. From the strict standpoint of fortifying the economic texture of the country, the wisdom of such action may be debatable, but the spiritual and social values associated with individual craftsmanship and decentralized commerce are, to the vast majority of Frenchmen, a priceless heritage which must somehow be conserved.

### 5. *Regulation of Industry.*

As might be inferred from the classic doctrine of economic individualism, early French legislation relative to industrial combination was unqualifiedly hostile. Desirous of ending the economic privileges enjoyed by the old guilds, the Revolutionary Assemblies of the 1790's not only forbade producers to unite for the purpose of raising the price of their products, but even prohibited workers from bargaining collectively for better wages. Into the Penal Code of 1810 were inserted punitive provisions which reflected a strong anti-monopoly attitude long before the business trust appeared on the scene. For more than a century "the letter of the law hung like the sword of Damocles over the heads of every industrial *comptoir* or cartel formed in France." It was beyond any fiat of the State, however, to stop the march of industrial combination. During and after the World War, French "big business"

began to assume really formidable dimensions. By then, what with the rapid expansion of the metallurgical and mining industries, the public took alarm.

Accordingly, in 1926, Parliament amended the Penal Code so as to make attempted, as well as actual, monopolistic practices punishable, even where direct fraud could not be proved. Yet it was clear from the parliamentary debates that there was no desire to impede the formation of cartels or understandings when their object was "to preserve a normal equilibrium between production and consumption. The hope was expressed that this latter kind of combination might soon be even sanctioned and regulated by law. . . . What the legislators and the Government intended was simply to throw a sop to the public which was becoming agitated under the constant rise in the cost of living during and after the war. The combination movement remained untouched."<sup>14</sup> To have tried to break up the new industrial cartels would have handicapped French industry in its competition with decidedly stronger combinations of German, British, and American manufacturers. Some degree of industrial "rationalization" had become accepted as desirable not only among most industrialists, but by organized labor as well. Where the two groups parted company was on the focus of control: should it rest with private owners? or with a tri-partite management representing technicians, labor, and the consuming public equally?<sup>15</sup>

The recent depression has still further shaken the traditional devotion of Frenchmen to the virtues of "forced competition." Legislation adopted during 1933-34 permits producers in any branch of industry in a given region to restrict production and fix hours of labor. When such agreements are approved by two-thirds of the member companies and the Government, they may be declared compulsory for the entire industry. Here, indeed, was a national policy strikingly suggestive of the ill-fated American N. I. R. A. Be it noted,

<sup>14</sup> Ogburn and Jaffé, *op. cit.*, p. 581.

<sup>15</sup> Labor's earlier point of view is admirably analyzed in Maxime Leroy's *Les Techniques Nouvelles du Syndicalisme* (Paris, 1921). Its more recent position relative to industrial reorganization is elaborated in an interesting brochure entitled *Le Plan de Rénovation économique et sociale*, edited by the C. G. T. (Paris, 1936).

moreover, that no French court could nullify this action of Parliament! <sup>16</sup>

#### 6. *Government Fiscal Monopolies.*

In common with the practice of numerous Continental countries, the French State has monopolized in its own hands the manufacture and sale of certain products primarily for fiscal purposes. The most important examples of the State as entrepreneur are the tobacco, match, and powder monopolies.

The tobacco monopoly, which produces the largest revenue yield of any, was first established in 1678. Abolished in 1791, it was reestablished in 1810 and has since then remained in the State's hands. Tobacco may be grown only in certain *départements*, as authorized each year by the Directorate of State Manufactures (nominally a part of the Finance Ministry). The entire crop is sold to this service and stored in its warehouses. The raw material is then processed for the market in government factories and the finished product sold directly to consumers or to retailers commissioned by the State, the retail price being fixed so as to allow the Treasury a considerable profit. In 1927 general supervision of the tobacco monopoly was transferred to an autonomous Amortization Fund Service (*Caisse d'Amortissement*), in conformance with the constitutional amendment of the preceding year. The net receipts of the monopoly must now be applied on the interest of national defense bonds and amortization of the public debt.

Two generations ago the manufacture and sale of matches was made exclusively a State monopoly. Until 1889 this was farmed out to a private company, but since that year it has been operated directly by the Government. In addition to its own production, which is never sufficient to meet demand, the State imports large quantities of matches from abroad. The price at which matches are sold by the State Manufacturing Service to wholesalers, and by wholesalers to retailers, is

<sup>16</sup> At the same time, recent governments have tried to control wholesale and retail prices by a system of "normal price" committees representing various functional interests. Persons selling above the levels set by "normal price lists" are first warned, and upon second offense fined. (Law of 19 Aug. 1936, and decrees of July-Aug. 1937). Despite the penalties against illicit speculation, prices continued to rise.

set by government decree. In 1927 Premier Poincaré proposed that the match monopoly be "conceded" to a Swedish match trust with a view to increasing revenue for the State, but the radical groups in the Chamber of Deputies succeeded in defeating the plan by a close vote.

Because of its close connection with national defense, the powder monopoly, dating from the French Revolution, is run by the Ministry of War. Except for explosives with a nitro-glycerine base, which may be produced privately at a heavy tax, the War Ministry possesses the sole right to manufacture powder. That part of the product intended for military use is sold to the military and naval establishments and the rest turned over to the indirect tax administration for sale to the public. The Treasury realizes a profit from these commercial sales.

In addition to the foregoing industrial monopolies, the State established in 1926 a monopoly over the importation and domestic sale of industrial alcohol. Manufacture, however, was left in private hands. Various proposals that the State extend this monopoly to commerce in *all* alcoholic products have been considered by Parliament, but thus far none of them has been adopted.

There are constant complaints, especially from conservative quarters, against the State acting as an industrial entrepreneur. It is charged not only that the operation of the government monopolies is inefficient and subject to political interference, but that their products are poor in quality. While there is considerable justification for these criticisms, the Treasury's need of tapping every possible source of revenue bids fair to extend rather than to restrict the domain of State fiscal monopoly.

#### *7. Exploitation of Natural Resources.*

*Minerals.* For well over a century the exploitation of mineral resources was governed by a special system of State concessions granted in perpetuity. The holders of mining concessions were required to work their holdings on pain of having them cancelled by the Minister of the Interior, provided the Council of State gave its judicial sanction upon appeal. A field inspection service in the Ministry of Public Works saw to it that safety provisions were properly observed

by the mine operators. In order to cover the cost of this service, the central Government and *commune* exacted from concessionnaire companies (1) a fixed sum based upon the territorial extent of the mine and (2) an annual payment proportional to the value of its product. The owners of the surface land received either fixed or proportional royalties, as stipulated in the original terms of the concession.

By the last years of the nineteenth century it was obvious that this system of mineral concessions permitted private interests to profiteer at the expense of the general public. Valuable new iron ores had been discovered in Normandy, and gold reserves in Anjou. What was more, the Bessemer process of manufacturing steel by removing phosphorus from iron ores had rendered commercially profitable the extensive Lorraine iron fields. Public opinion demanded that the State should more effectively protect its interest in these national resources by limiting all future concessions to a fixed period of years and insuring a fuller participation in mining profits for itself and labor. After years of discussion a more rigorous type of State control over mining was finally adopted by Parliament in 1919. Under the terms of the new legislation, the duration of future mining concessions may not exceed ninety-nine years. At the expiration of every concession, mining properties revert to the State (unless the concession is renewed). In addition to the old payments, the State now shares in all operating profits above a fixed rate, the amount increasing with the excess. A quarter of the State's share is allocated to a retirement fund for mine workers. Mine operators must pay to their employees a minimum wage which, failing voluntary collective agreement, may be determined by arbitration. Furthermore, the law significantly affirms the right of the State itself to go into the mining business, or to set up a corporate form of management in which private and public capital shall be jointly represented, whenever the public interest demands an alternative to private operation "under concession."

At the time of its passage the legislation of 1919 was hailed in radical circles as a preliminary step to nationalization of the entire mining industry. Obviously, it should make the transition to nationalization a legally easy procedure if and when such a policy proves acceptable to the country.

A further indication that nationalization may be in the offing is found in a Popular Front measure enacted in 1936 for the reorganization of the coal market. The "sick" condition of the French coal industry during the economic depression called for direct financial assistance from the State if wholesale shut-downs were to be averted. The new law authorizes the creation of a National Coal Committee (under the Minister of Public Works), made up of representatives of the Government, mine operators, mine workers, distributors, and consumers. This Committee is empowered to inquire into the conditions under which coal mining is conducted, the domestic product sold, and foreign coal imported. Upon the Committee's recommendation, the Minister may fix the sale price in each mining area and extend subsidies to mining concerns operating at a loss, provided they agree to modernize their techniques of production and management.

*Hydro-electric Power.* The natural resources of France are not limited to "black coal," of which the total production far from satisfies domestic needs. Fortunately, nature has also provided an abundant supply of "white coal" in the form of water power sites. The Alps, the Pyrenees, the Juras, and the *Massif Central* are cut with water falls susceptible of being harnessed to turbine engines. While some of the sites are situated on the public domain, the great majority are on streams running through privately owned land. It was not until after the World War that the far-reaching potentialities of hydro-electric power came to be realized. What little exploitation had previously been undertaken was the result of concessions granted by ignorant farmers to utility interests for a "song." Shrewd promoters would acquire these concessions and hold them until they could be resold at a speculative profit. Like the early mining concessions, these rights to utilize water power were of unlimited duration. This state of affairs not only allowed private industrialists to wax rich off a resource that inherently belong to the whole community, but was not calculated to favor the rational development of hydro-electric energy for national purposes.

Again, as in the case of mining regulation, it took years of agitation before an acceptable legislative program could be devised. This was finally adopted by Parliament only a few days after the passage of the mining law. The principle under-

lying this legislation is that future rights to exploit hydraulic power sites, whether a part of the public domain or not, may be granted only by the State, since they are alike affected with a "public interest." These rights take the form of contractual concessions not to exceed seventy-five years in duration. The State may participate by purchasing stock, making loans, or granting subventions. If the energy produced is sold, the State also shares in the net profits; if it is utilized directly by the producers, the State receives an annual payment proportional to the amount of power developed. Each contract (*cahier des charges*) must also reserve a portion of the water (or power) for use by public service enterprises—national, regional, or municipal, as the case may be. When a concession involves the diversion of water from one river basin to another, or the normal power produced exceeds 50,000 kilowatts, a special act of Parliament is necessary; otherwise, the concession may be authorized by executive decree after approval by the Council of State. In each instance the contract of concession must stipulate the terms on which the State may acquire the hydro-electric properties upon its expiration.

In order to facilitate the development and coördination of high-tension projects for the transmission of power over long distances, supplementary legislation was passed in 1922. The new provisions authorize the Government, on its own initiative, to compel private power producers and distributors, together with the *départements* and *communes* or other public establishments in a given area, to set up regional transmission systems under the State's direction and, if need be, with its financial aid. In case certain producers refuse to enter into such agreements, the State may either buy out or expropriate their plants. No application of this procedure has as yet been necessary because agreements voluntarily negotiated by private power interests have facilitated the expansion of high-tension transmission of electrical energy in a reasonably satisfactory manner. During the last fifteen years, however, the State has subsidized various rural electrification projects, as well as a number of important industrial developments. Since 1920 a Central Service of Hydraulic Power and Electrical Energy Distribution, in the Ministry of Public Works, has acted as a technical planning agency for the Government and provided engineering advice on state-aided power projects.



### 8. *Local and Regional Public Utilities.*

Until the present century, municipal public utility development in France lagged far behind the progress of other urban centers in northern Europe. To a large extent this lag was due to the fact that French law insisted upon applying to local government units the old principle that commercial competition should be free. Gradually, however, the French Council of State liberalized its interpretation of the law so as to allow cities to establish their own water, gas, and garbage services. In 1913 Parliament itself extended the domain of local "police power" so as to include tramways, mining enterprises, and concessions for hydro-electric power. After the War cities were accorded the further right to assure municipal food supplies either by agreement with coöperative distributing organizations or by the operation of public markets, abbatoirs, bakeries, etc. This evolution reached its consummation in 1926 when a Poincaré enactment removed all legal limits to the scope or form of municipal "trading," provided it had a "public purpose."

Though they are still less numerous than in England, Germany, or Scandinavia, French municipal utility enterprises have rapidly expanded during the last decade. These undertakings exhibit three distinct types of management or control: (1) the municipal department, run by officials appointed by the city government; (2) the franchise or concession, granted conditionally to a private concern, as exemplified by the Paris subway system; and (3) the "mixed enterprise," in which public and private management are joined. In many ways the last type is the most interesting. It represents an ingenious effort to combine the elasticity and independence of private operation with adequate protection of the community's interests. With the prefect's approval, any municipality may purchase up to 40 per cent of the stock of a private utility and appoint representatives on its board of directors in proportion to the city's stock holdings. Earnings are limited to 6 percent, in which the municipality shares either in a service or a financial return. If the municipal representatives disapprove of any vote taken by a majority of the board, they may demand reconsideration of the issue. If sustained by the Minister of Public Works, their view prevails on any matter of policy,

finance, or administration. Thus an effective regulation of rates, accounts, and service is obtained without the danger of official power being abused.<sup>17</sup>

*Départements*, as well as municipalities, may establish utility undertakings on a similar basis. In practice these have largely been limited to local transit and water supply services. Frequently, however, neither the *commune* nor the *département* is a large enough unit to conduct efficiently an engineering or construction undertaking. Legislation enacted as far back as 1890 permits communes to create joint services (*syndicats inter-communaux*) which may be administered by a single committee chosen from the participating municipal councils. It was hoped that small rural *communes* would make liberal use of this enabling act so that the countryside might be more adequately equipped with gas and electricity. But reliance upon local initiative in rural areas has proved disappointing. The most important examples of inter-communal *ad hoc* consolidation are to be found rather among the suburban communities within the orbit of such metropolitan centers as Paris and Lyons.

More recently, any two or more *départements* have been authorized to set up joint utility establishments on their own initiative. It was believed that, by thus uniting *départements* for specific purposes, a more adequate *regional* basis could be provided for conducting water, electricity, and transport enterprises, as well as normal schools and hospitals. Unfortunately, the difficulties of local public finance during the subsequent decade militated against any considerable use of this promising procedure. Instead, the central Government itself has tended to replace "regional" initiative through subsidized public works programs. At the present time efforts are under way to integrate these state-supported programs with the requirements of metropolitan and regional planning.

#### 9. Large-Scale Public Works.

Because of the relatively large importance of agriculture and small-scale commerce in the French economic system, there has not been such a strong demand (as in other countries) for public works expenditure as a means of providing

<sup>17</sup> Cf. M. E. Dimock, "Les Entreprises Mixtes," *Nat. Munic. Rev.*, Nov. 1931.

jobs, or as a measure for stimulating industry during business slumps. During the early twenties the reconstruction of the regions devastated by the German invasion of 1914 did, to be sure, entail enormous capital outlays whose effects were definitely expansionist. But after the first stabilization of the franc (1926-28), the national government resumed a more moderate policy, the objective of its annual expenditures for public works being to "modernize" the nation's technological equipment rather than to "prime the pump" of private industry. Indeed, so long as unemployment remained negligible, action of the latter type was not necessary. From 1920 through 1932, a total of only 4.5 billion francs (\$180,000,000 at the 1926-36 value of the franc) was spent by the central government in building roads, electrifying railways, and improving ports, lighthouses, and canals. By the end of this period, however, the index of production had shrunk to 69 (taking the year 1929 as 100), and during the winter of 1932-33 the number of "registered" unemployed reached 350,000. Since the majority of industrial workers, being of rural origin, return to their ancestral households upon losing their jobs and are hence sustained by the land, unemployment figures reveal only a fraction of the total number of persons without work. Thus in 1933 the C. G. T. estimated total and partial employment to be somewhere between 1,500,000 and 2,000,000. "Hunger marches" into the large cities and an epidemic of strikes forced the Government to employ its financial resources on a more ambitious scale.

For 1933 and 1934 national appropriations for public works were increased to over 7 billion francs, and the State arranged to bear part of the interest on loans contracted by local authorities on employment projects. In the autumn of 1934 the Marquet Plan (so named for the Minister of Labor who sponsored it) for a ten-year public works program, involving an outlay of 10 billion francs, was authorized by Parliament. This program was to be financed by loans from the National Social Insurance Reserve Fund, repayable in annual instalments within a maximum period of thirty to fifty years. But the deflationary policy pursued by succeeding governments largely nullified the intended effects of a program that, at best, would only gradually have made itself felt.

Pledged to take aggressive action against the scourge of

unemployment, Premier Blum's first Popular Front cabinet launched a much larger and more swiftly moving program. Over and above existing authorizations, an expenditure of 20 billion francs was projected over a period of three years, the outlay for the initial year (1936-37) to be 5 billion. Although expenditures at this rate had to be curtailed in the spring of 1937 because of financial stringencies, organized labor has not ceased to press its case for a resumption of public works on a grand scale. This attitude is part and parcel of the C. G. T.'s belief in the "purchasing power" theory of recovery.

While opinions differ in France (as they have since 1933 in the United States) on whether inflationary public works expenditure tends to expedite or delay economic recovery in a capitalist system, there is no doubt that such outlays have helped to minimize actual unemployment. Further than this, the economic and social equipment of the country has been more thoroughly overhauled and expanded than during any previous corresponding period. The range of recent public works programs has extended not only to naval and colonial undertakings, the abolition of grade crossings, railway electrification, hydro-electric power development, rural water supply, reforestation, land reclamation, and low-cost housing, but also to the domain of social welfare as exemplified by urban beautification, schools, scientific laboratories, libraries, theaters, hospitals, clinics, stadia, and playgrounds.

From the standpoint of administration and finance, a central feature of this large-scale public works activity has been the effort to reconcile local and private enterprise with national leadership. In the majority of cases, only part of the money comes from the national Treasury, the rest, in fixed percentages, being supplied by local authorities, railway companies, private industry, and colonial agencies. A national commission draws up a general plan and establishes lists of projects, with detailed schedules, classified as to nature and urgency. Applications for aid on-specific projects must be submitted for technical scrutiny to the Ministries of Finance, Interior, and Labor before they may be approved. Wage scales, hours of work, and the use of machinery are regulated by the central authorities with a view to employing the maximum number of persons. Except for projects falling within the exclusive jurisdic-

tion of the national government (e.g., arterial highway and naval construction), execution of the work itself is handled either directly by the local authorities or by approved contractors after competitive bidding. National officials check up on the technical aspects of construction by periodic field visits, while accountability for the proper expenditure of the funds is secured through the regular inspectorate of the Ministry of Finance.

Because of the concentration of unemployment in the region of Greater Paris and the mining and industrialized areas of northeastern France, the flow of subsidy for public works has tended to go for urban rather than rural projects. This situation has naturally not been to the liking of the rural sections. In this connection, it may be significant that in October 1937 an agricultural conference held by the Radical Socialist party, the "pressure group" *par excellence* for rural France, should have adopted a resolution asking the Government to give increased emphasis to rural needs in the allocation of future public works funds.<sup>18</sup>

#### 10. *The Bank of France.*

No country shows a more thoroughgoing hostility to the concentration of financial power than France. French people, as M. André Siegfried has aptly remarked, "seem to hate the idea that the State should be inspired by bankers, by great manufacturers, that is, the powers of organized money. They have no sense of big business; they know what a bond is, but many of them have never owned a share."<sup>19</sup> To millions of Frenchmen the Bank of France has long symbolized the stranglehold of "high finance" upon the national Government. Since it was founded by Napoleon in 1801, this central banking institution has enjoyed the exclusive privilege of issuing currency. By rediscounting paper offered by other banks, it was in a position virtually to control the credit facilities of the country. For more than a century, through one political régime after another, the Bank has exerted a decisive influence upon the course of French financial and economic life. In an effort to produce popular support for its policies,

<sup>18</sup> Reported in *La Vie Communale et Départementale* (Paris), Nov.

1937.

<sup>19</sup> Quoted in J. K. Pollock, *Money and Politics Abroad* (New York, 1932), p. 317.

the Bank has gone so far at times as to subsidize important newspapers. After the World War, by refusing to discount short-term Treasury obligations, it drove Left governments from office on several occasions, as well as compelling Center and Right cabinets to pursue an "orthodox" financial policy as dictated by its board. Premier Herriot yielded before the strong arm of the Bank in 1925, and Finance Minister Cailiaux after him. From 1932 to 1934 a succession of Left Bloc finance ministers struggled vainly against the Bank's opposition to their attempts to secure loans for the Treasury. Premier Doumergue adopted the Bank's conservative views, but the financial situation got no better. When in 1935 Flandin tried to create cheaper money, he, too, had to capitulate. Laval, his successor, obediently played the Bank's game by imposing the most severely deflationary program upon France that it has perhaps ever suffered in a like period of time. Finally, in 1936, the long smoldering revolt of the masses against this "financial oligarchy" broke into flames, and after the Popular Front victory the management of the Bank was radically altered.

The object of this important reform was to wrest control over the Bank from a board of directors which "had become a semi-hereditary prerogative of some fifty leading families." Under the Bank's old statutes, only the 200 largest of its 40,000 stockholders could vote for the fifteen regents and three advisers (*censeurs*) on the board. Since only the governor and two vice-governors were appointed by the Government, and the former official had to own at least 100 shares of stock (usually provided by the regents), actual control over the Bank's policy rested with the regents. By dangling before him some lucrative post in private industry or banking, the regents did not find it difficult to convert even a liberally inclined governor to financial "orthodoxy"; and the regents represented the most powerful financial and industrial magnates of the country.<sup>20</sup> For more than a century certain seats

<sup>20</sup> "A memorandum submitted to the Chamber of Deputies during the discussion of the reform bill showed that 12 Regents, either directly or by the intermediary of their sons and nephews, were directors of 95 corporations: 31 private banks, 8 insurance companies, 9 railroads, 8 shipping concerns, 7 metallurgical industries, 8 mines, 6 electric companies, 12 chemical industries, and 6 miscellaneous corporations." G. Boris, "Reforming the Bank of France," *For. Affairs* (New York), Oct. 1936.

on the board had been passed along by what amounted to an hereditary succession. "Down with the Regents" became a resounding Popular Front slogan in the national campaign of 1936. "Transform the Banque de France into the Banque de la France!" "Demolish the financial Bastille of the 200 families!"

While complete nationalization of the Bank was at first considered by the Blum Government, it was feared that so extreme a proposal might arouse insurmountable opposition from the business world. As finally adopted, after agreement between the cabinet and the more moderate elements in the Senate, the new law does not go so far as that. It does, however, unmistakably take the direction of the Bank out of the hands of private financial interests. The new directing council consists of the governor, two vice-governors, three advisers, and twenty councillors chosen for three-year terms. The entire assembly of stockholders, each member having one vote regardless of the size of his holdings, elects the three advisers and two of the councillors, none of whom has any official connection with private banking. Of the remaining eighteen councillors, six are chosen by the Ministry of Finance from panels representing consumer, artisan, industrial, agricultural, and labor organizations; three directly represent the Ministries of Finance, National Economy, and Colonies; six are *ex-officio* members drawn from various financial institutions under the jurisdiction of the Finance Ministry; and three are appointed respectively by the National Economic Council, the Superior Commission of Savings Banks, and the staff personnel of the Bank itself. As previously, the Government designates the governor and vice-governors, but they do not need to be shareholders. Thus, of the twenty-three directors with voting powers, twelve represent the State, while several others are drawn from groups hostile to high finance. The administration of the Bank may be delegated by the Council to a permanent committee composed of the governor and vice-governors, plus four councillors, of whom one must be designated by the Treasury. Here, again, the Government's representatives constitute a majority.

Under this "democratic" type of management, the Bank of France is expected to serve the *national* interest instead of the selfish concerns of private finance. The new law requires the

Bank to discount without limitation all certificates of the floating debt during the three months prior to date of maturity. This requirement should "protect the Treasury against difficulties which in the past have been exploited—if not deliberately provoked—by the Bank." It is generally agreed that the Bank's methods need to be modernized so that it may more effectively coöperate with the central banks of other countries and engage in "open market" operations. Such changes, however, may be administratively effected without much, if any, additional legislation.<sup>20a</sup>

<sup>20a</sup> A decree authorizing an open market policy was issued by the Daladier Government in July 1938.



## CHAPTER IX

### SOCIAL WELFARE SERVICES

Paralleling the growth of State activity in the economic field, there has been a wide expansion of public services for the promotion of cultural and social welfare. In large part this second development is a consequence of the same forces—industrialization and urbanization—that produced the first. But a third factor of capital importance has also had much to do with the rise of social services within the life-time of the Third Republic. This is the democratic movement—a movement accounting, in particular, for the establishment of free and compulsory public education, and contributing secondarily to the adoption of labor legislation and the development of social insurance, health, and recreational services.

Even more than in the economic domain, French individualism long tended to retard social welfare legislation. "Our democracy," M. Siegfried once wrote, "is Latin in origin, and therefore unlike the Anglo-Saxon democracies, where practical social accomplishments are the first consideration. . . . This democratic formula which arose from Puritanism is an Anglo-Saxon invention and has no connection with our rational conception. Politically the Anglo-Saxon state is moral rather than intellectual; and although it fully recognizes the rights of man, it drags in social duties which from our point of view seriously hamper his liberty."<sup>1</sup> More concretely put, the conservative Frenchman innately objects to measures which allow State officials to interfere with his personal habits and family traditions, even though such regulations may often be in the interest of improved social hygiene, better housing, or more adequate schools. It has required two generations of persistent agitation by the forces of organized labor and social radicalism to undermine this instinctive fear of intellectual and social "regimentation." Today, even, the French Republic lags behind its sister democracies in Europe

<sup>1</sup> *Op. cit.*, p. 112.

as regards public health facilities and social insurance, although the high intellectual standards of its public educational system give cause for admiration.

### 1. *Education, Science, and the Arts.*

Until the French Revolution the provision of general education was not considered a proper activity for the State. During the *Ancien Régime* the Catholic Church and the religious orders provided instruction to youth. Indeed, it was due largely to the impetus of the Papacy that the mediaeval French Universities, starting with Paris in the thirteenth century, were founded. Only gradually did they come under the protection and patronage of royalty. At one fell swoop, the Revolution abolished both the Universities and the Church monopoly over lower education and proclaimed in their place the principle of "liberty of instruction." This action contemplated concurrent public and private activity in providing schools.

As was indicated in Chapter II, however, Napoleon Bonaparte, impregnated with what would today be called *l'esprit totalitaire*, established in 1806 a State monopoly over education. This monopoly was hierarchically organized into a "public corporation," known as the *Université impériale*. At its head stood the *Grand Maître*, a personal appointee of the Emperor. For administrative purposes, the Imperial University was geographically divided into twenty-seven "academies," each administered by a *recteur*. Three levels of scholastic instructions were envisaged: (1) *superior*, given by University Faculties; (2) *secondary*, provided by the imperial *lycées* and communal colleges; and (3) *primary*, emanating from the elementary schools. Since Napoleon had little interest in popularizing elementary education, instruction at that level was, as a matter of fact, left to religious groups under regulations laid down by the *Grand Maître*. By the Emperor's Concordat with the Church, it was allowed to train future priests in its own seminaries.

During the Restoration (1815-1830), although the State monopoly over education was nominally retained, the influence of the clergy in training the young once again asserted itself. The Orleanist régime not only legalized private elementary schools, but what was more important, adopted the

proposition that elementary instruction should be accessible to all children on the basis of the ability of their parents to pay for it, although it was not to become obligatory for another half century. Frightened by the proletarian excesses committed during the Revolutionary disturbances of 1848, the French bourgeoisie, by the Falloux Law of 1850, sanctioned the operation of private Church schools at the secondary level and permitted the clergy to participate in the supervision of all public schools. In 1875 further legislation favoring the Church in educational matters was adopted. At that time private groups received the right to establish institutions of higher learning, thus making possible the creation of a number of so-called "free" Catholic faculties which have been allowed to exist to the present day.

While the dogma of "educational freedom" is still ingrained in French law, the Third Republic, as indicated earlier, has taken away from the Church all the special privileges it once enjoyed as educator—except in Alsace-Lorraine, where the Falloux Law remains in operation despite "radical" opposition. Catholic schools in large numbers continue to flourish, but they may not be subsidized out of public funds. Not only is the right to teach now rigorously forbidden to members of religious orders, but the State inspects all private schools, parochial or otherwise, in regard to hygiene and the proper observance of law and morals.

During the Third Republic there have been four major educational advances: (1) the adoption of the principle that elementary schooling should be free and compulsory; (2) the establishment of State "secularized" schools at this level in every *commune* throughout the land; (3) the creation of public secondary schools for girls; and (4) the abolition of tuition charges for day pupils in the public secondary schools.<sup>2</sup> By a system of State scholarships, which has been steadily extended since the World War, considerable numbers of needy and meritorious pupils receive not only free tuition, but also free board and lodging in those State *lycées* that are equipped to house students.

<sup>2</sup> The first three of these reforms were adopted in the 1880's under the leadership of Minister Jules Ferry. The elimination of tuition charges was decreed by a series of enactments from 1927 to 1933, resulting from Radical Socialist pressure.

From 1882 to 1936 the compulsory school attendance period for both sexes was from six to thirteen years. The Popular Front Government of 1936 extended the school-leaving age to fourteen years.<sup>3</sup> This reform was in part dictated by the desire to remove children from the labor market.

Training at the elementary level is given in four different types of public schools. The first is the kindergarten (*école maternelle*), for children from two to six years. The second is the "elementary" primary school, organized for boys and girls separately, as well as for both sexes together, from the age of six to thirteen. Next comes the "superior" primary school, providing two or three years of supplementary training, the creation of which is optional with the communes. The last type is the manual training school (*école manuelle d'apprentissage*), open to children of at least thirteen years of age and to holders of certificates of primary studies.

Teachers at the elementary level, numbering over 130,000 in all, are professionally trained in a three-year normal school course provided in each *département*. Admission to these special training institutions, which constitute "veritable pedagogical nurseries," is competitive, successful applicants receiving free instruction, board, and lodging. Before obtaining permanent appointments, elementary teachers are required to serve two years on probation. Once appointed, they enjoy permanence of tenure, dismissal being possible only for incompetence or violation of educational regulations, after a hearing before an academic disciplinary council. Under the law neither religious nor political considerations are supposed to influence the appointment of teachers. Nonetheless, it is not uncommon in conservative regions for the prefect, who must approve the recommendations of the departmental educational inspector, to refuse to sign a commission because of the "atheistic" or "radical" views of the candidate. The movement to "secularize" the public schools has of course produced the legal principle that neither religious nor anti-religious instruction may be given in the classroom. Recruited from lower-class circles, the vast majority of elementary teachers are, however, strongly anti-clerical and pacifistic, if not openly socialist in

<sup>3</sup> Law of 11 Aug. 1936. As late as the year 1934, nearly 7 percent of the adult population could neither read nor write. Illiteracy is higher in many leading European countries than is commonly supposed.

outlook. The content of the curriculum may be set by ministerial order, but the teachers give it their own interpretation.

The ordinary costs of maintaining elementary schools are divided between the national and local governments. Teachers' salaries, the scales of which are standardized by national law, constitute mandatory charges on the State budget, while expenditures for equipment and upkeep are borne by the *départements* and *communes*. In 1935 there were in all France 68,000 public elementary schools (not including kindergartens or manual training schools), with 4,300,000 enrolled pupils. The total number of children receiving elementary training in all schools, private as well as public, approximated 5,200,000, or 124 per 1000 of the population.<sup>4</sup>

Secondary education is provided in two types of schools: (1) *lycées*, established and controlled by the central Government, and (2) communal *collèges* which, although maintained by the municipalities, are subject to general supervision by the Ministry of National Education. None of these "high schools" is co-educational. Their instructional staffs are competitively selected from graduates of two Superior Normal Schools maintained by the State for men and women separately. These schools, to which admission is competitive, provide a rigorously trained reservoir of teaching talent for the *agrégation*, an exceedingly strenuous oral and written examination which must be hurdled before appointment. "The unrivaled crown and glory of French education at any stage," comments an American authority, "is to be found in its body of secondary instructors. No country in the world can show so powerful and so highly selected a group of scholars dedicated to a great public service."<sup>5</sup> With respect to the intellectual standards required of its pupils, the French *lycée* would put to shame the average American high school. Seven years of rigorous, almost playless, mental discipline precede the comprehensive battery of 17 written and 43 oral tests which must be passed for the coveted *baccalaureat* degree. Frankly intellectualist in purpose, this training emphasizes the mastery of the mother tongue, a thorough knowledge of litera-

<sup>4</sup> The ratio was approximately the same in Great Britain and Germany, in comparison with around 170 in the United States.

<sup>5</sup> N. D. Learned, *The Quality of the Educational Process in Europe and America* (New York, 1925), p. 7.

ture and history, and an intimate acquaintance with philosophy. The primary aim is to inculcate methods of exact thought and logic. Rarely is an important position in government, the professions, or industry ever attained by men devoid of this severe intellectual preparation.

The *lycée* clientele constitutes an educational *élite*. Notwithstanding the provision of State scholarships, only a fraction of those children who complete the elementary course can afford to enter *lycées* or *collèges*. The total number of pupils enrolled in secondary institutions was but 250,000 in 1935, or about six per 1000 of the population, in comparison with eleven in Great Britain and thirty-six in the United States. For the other children, the *école primaire supérieure* offers a less expensive alternative path which emphasizes vocationalism rather than cultural development. Available also are a variety of publicly supported technical and commercial schools offering practical training beyond the level of the *école primaire supérieure*.

At the top level of the public educational establishment stand seventeen State universities and a cluster of advanced technical schools likewise regulated and financed by the Government. During the first half of the nineteenth century the "ancient" universities suffered a period of decline. It took defeat at the hands of Prussians in 1870 to arouse the Third Republic to the conviction that "the spirit of positive science was its most valuable support; and in free research, and in reason, it envisaged the form of human idealism which suited it best. The universalist ideal of High Education was revived once more, aided by the example of the German universities."<sup>6</sup> A large number of new buildings were erected, academic equipment was improved, and several additional professional chairs were established. In 1896, with a view to rejuvenating the provincial universities, Parliament passed a law which considerably decentralized their administration. Since then, the several university faculties located within each academic region have constituted a semi-autonomous body, the general council of which controls the internal policies and budget of the university. French university professors are initially recruited from two sources. Professors of letters and sciences are skimmed from the cream of experienced *lycée*

<sup>6</sup> Curtius, *op. cit.*, p. 166.

instructors, while posts in the law and medical faculties are reserved to those holders of a doctor's degree who manage to survive the further ordeal of a special competition involving many hours of written and oral examination. Within a given faculty promotion in salary and rank is determined by its council (consisting of the dean and elected members). Professional advancement is also possible by transfer from a lesser to a more important university anywhere within the State system.

Whenever an upper-grade vacancy occurs, the local faculty council examines the credentials of qualified applicants, local and otherwise, and then submits a first and second nomination to the Ministry of Education. The Ministry's central advisory committee may also nominate two candidates. In most cases the latter are identical with the former. From this panel of two to four names the Minister ordinarily makes the appointment. "The purpose of these double nominations is to provide a check upon a faculty group or clique when it is strongly prejudiced in favor of some local candidate supported by influential friends or relatives."<sup>7</sup> Deans are appointed by the Minister of Education for three-year terms from a double list of two candidates drawn up by the local faculty concerned and the university council respectively.

The higher degrees conferred by the State university faculties of law, medicine, science, and letters include (1) the *licence*, roughly equivalent to the American M.A. and obtainable after one or two years' study culminating in a comprehensive examination; and (2) the *doctorat*, for which three or more years of work is ordinarily necessary, in addition to the successful defense of a thesis. Since entrance to the university depends upon the successful completion of the *lycée* course (with the *baccalaureat* degree), and since less than 60 per cent of the candidates for the latter degree manage to attain this pre-requisite, university student enrollment is kept within strict quantitative limits. During recent years it has totaled less than 90,000, and even this relatively small figure represents a 100 per cent increase over pre-War numbers.<sup>8</sup> The French

<sup>7</sup> Sharp, *op. cit.*, p. 407.

<sup>8</sup> Contrast the million students in American colleges and universities. On the other hand, total university enrollment in Great Britain is only 50,000.

university continues to serve an academic "super-élite" selected primarily in terms of individual capacity.

In addition to the regular universities, the French State operates numerous independent schools for advanced professional training in special fields. The most important of these institutions were referred to in connection with our discussion of pre-entry training for the public service.<sup>9</sup> Scientific and technological research is directly fostered by means of institutes which function independently or are attached nominally to universities or government departments. Such, for example, are the *Instituts de Droit Comparé* at the Universities of Paris and Lyons, the *Institut de Statistique*, and the *Institut des Recherches agronomiques* in the Ministry of Agriculture. A Superior Council of Scientific Research, established in 1933, advises the Research Division of the National Ministry of Education on how to improve research facilities. The Ministry of Education also has administrative charge of all State libraries, including the famous *Bibliothèque Nationale* and others of lesser importance, which are financed out of the Ministry's budget.

Advice on curricular, pedagogical, and personnel policies is provided by a Superior Council of Public Instruction composed largely of representatives of the teaching profession. The administrative Divisions of Primary and Secondary Instruction within the Ministry maintain a corps of field inspectors whose duty it is to report on educational standards and equipment throughout the country. Since Napoleon's time, the chief educational officer for each educational district (now 17 in number) has been the *recteur*. He is appointed by the Ministry from among career educators possessing the doctor's degree. The heads of all the central administrative divisions of the Ministry are similarly drawn from the active university and *lycée* teaching corps. One of the most frequently criticized features of the Ministry's headquarters organization is the relatively fleeting tenure of its directing officials. As political power shifts from Right to Left, or vice versa, any of these directors may be returned to their regular posts and new men

<sup>9</sup> Cf. p. 157 *supra*. French centers for instruction and research in the social studies are conveniently described in *Les Sciences sociales en France* (Paris, 1937), a report prepared by the *Centre d'Etudes de Politique étrangère*.



appointed in their place. This practice has not always been conducive to continuity in educational planning. At times, moreover, the centralized control of Paris over curriculum and teaching methods appears to discourage pedagogical experimentation. Efforts undertaken by the teachers' associations to make this centralization more flexible are gaining headway, but all too slowly. At the same time, it is only fair to add that, so far as the selection of textbooks is concerned, French teachers enjoy considerable latitude. Each year the local assembly of teachers may choose from a long list of available books. Since the World War, many elementary teachers have succeeded in forcing the elimination of "militaristic" history books by simply refusing to use them in their classes.

By and large, popular education, itself a by-product of political democracy, has exerted a powerful democratizing influence upon French society. "Not only through economic competition," as a distinguished German liberal commented a few years ago, "but also by way of academic selection, the Frenchman can find his way into that class of society which is described as the *bourgeoisie* or the *classe moyenne* which is the stabilization force in the body corporate. When a man has acquired a 'higher' or university education he becomes *bourgeois*. It is the ambition of the 'lower' classes, of the manual laborer, the peasant, or the workman, to make his son a *Monsieur*. This is almost always possible if the boy is gifted in any direction."<sup>10</sup> Through the educational reforms adopted by the Third Republic, in particular the State scholarship system, an increasing percentage of the population is able to rise in the social scale.

Looking ahead, the most urgent educational need in France is increased appropriations for instructional personnel and equipment. In recent years elementary schools and *lycées* have become greatly overcrowded. Adult education, moreover, has been largely neglected by the State, activity in this field being confined to the initiative of labor unions and private civic groups. Excluding outlays for military purposes and debt service, only 14 per cent of all French governmental expenditures in 1930 went for education, in contrast to 37 per cent in the United States; and the subsequent trend has not been

<sup>10</sup> Curtius, *op. cit.*, p. 172.

noticeably upward because of the draining off of national income for rearmament and unemployment relief.<sup>11</sup> On the other hand, the French public educational budget, in relation to per capita income, is measurably superior to that of Nazi Germany, where the schools have suffered heavily at the hands of the Hitler régime.

*The Fine Arts.* Aside from the academic establishment proper, promotion of the fine arts has always been a direct concern of the French Government. A special section of the Ministry of National Education exercises administrative supervision over these "aesthetic" activities, which are of three types. First of all, on the side of training, may be noted the National School of Fine Arts, which, supported by public funds, attracts students in painting, sculpture, and architecture from all parts of the world; the National Conservatory of Music and Declamation; and a number of lesser schools devoted to the arts which are maintained in provincial centers. The second function of the Fine Arts Division is the upkeep of the celebrated art museums and historic monuments with which French cultural heritage has been enriched, such as the Louvre and Luxembourg Museums in Paris, the palaces and gardens of Versailles and Fontainebleau, and the ancient "royal" châteaux of the Touraine region.

The third phase of the State's interest in art takes the form of financial encouragement to creative output. The manufacture of the famous Sevres porcelains, and the Gobelin and Beauvais tapestries, has long been a direct State activity. Expositions designed to display progress in the mechanical arts, as well as *salons des beaux arts*, receive subventions from the national Treasury; while prizes for art masterpieces and traveling fellowships for promising young artists are annually awarded. Although advance censorship of stage productions has not existed since 1906, the Government has the power to stop theatrical presentations while in progress whenever it deems such interference to be warranted in the interest of public morals or security. This privilege, however, is rarely invoked. Private producers are free to operate theaters, provided they inform the authorities of their intention to observe proper safety measures. Alongside these privately operated

<sup>11</sup> G. Cohn, "International Comparison of Educational Expenditures," *Social Research* (New York), Nov. 1935.

theatrical enterprises are four state-owned establishments in Paris: the *Comédie française*, the *Odéon*, the *Opéra*, and *Opéra comique*. The directors of all of these famous institutions are appointed by the Government. Financially, the last three operate under special concessions granted to commercial "societies of subscribers," and are self-supporting. The *Comédie française*, on the other hand, receives annually a generous subsidy from the State.<sup>12</sup> In the leading provincial cities municipally subsidized theaters and operas are invariably to be found.

The public regulation of moving picture houses is inspired by the same general considerations that apply to the theater. But censorship of films goes further. Before any film may be publicly shown, it must be approved by the Director of Fine Arts. In reaching a decision the latter official is guided by the recommendations of a national censorship commission made up of representative artists, motion picture producers, and civic leaders. After a picture has been exhibited, discretionary authority to censor films may also be exercised in case public morals or safety are jeopardized by the effect produced upon the audience. News reels showing serious riots or labor disturbances, such as, for example, the strike of naval workers at Toulon and Brest in 1935, have sometimes been suppressed by the Ministry of the Interior as a precautionary police measure. Official censorship in France has thus far been marked by less interference with the cinema than has been the case in the United States, where an "unofficial" censorship of films exists. It is highly unlikely that the showing of such an important educational picture as "The Birth of a Baby," the victim of unofficial censorship in many American states and cities, would be barred in France. Nevertheless, the French system contains perhaps greater potentialities of abuse from

<sup>12</sup> Ever since this theater was re-organized by Napoleon in 1812, it has been noted (if not notorious!) for its rigid adherence to French classical drama—Moliere, Racine, and Corneille. In 1936, however, Premier Léon Blum dared to appoint a "modernist" as its director. "Only in France," editorially commented *The Nation* of New York (issue of 22 Aug. 1936), "would even a leftist government make the author of 'The Captive' (banned in New York because lesbianism was its theme) a government official. But if he really succeeds in modernizing the *Comédie* the achievement will be of international significance inasmuch as it will remove the chief existing argument against government concern with the arts."

arbitrary-minded officials than is true of the "moralistic" control of American film content by "Czar" Will Hays' organization.

## 2. *Labor Legislation.*

French legislation for the protection of labor dates from the last quarter of the nineteenth century. Although a few isolated labor measures were adopted somewhat earlier, their provisions were not important. It was not until 1874 that the State really intervened to check the employment of children in factories and mines. As noted earlier in these pages, the following decade brought definite legalization of trade unions.<sup>13</sup> During this period, also, the first rudimentary system of factory inspection was established. The 1890's saw the extension of safety inspection to mines. As the century closed, compensation for industrial accidents was incorporated into French labor law, a principle which has subsequently been strengthened and extended to commercial, agricultural, and domestic employment. In 1906 the long struggle to secure legislation assuring one day's rest in seven for industrial workers was won. That same year, moreover, the Clemenceau Government recognized the growing importance of labor law administration by transferring the previously scattered bureaus dealing with labor to a new Ministry of Labor.

During the following decade, social insurance, begun somewhat earlier on a minor scale, was applied to several additional industries and classes of workers. Undertaken originally in 1901, the codification of labor law reached partial completion with the appearance in 1927 of the first four sections of the new code.<sup>14</sup> In the meantime, the national importance of having a contented labor supply was dramatically demonstrated by the demands of the World War. Organized labor, conscious of its newly won strength, did not hesitate to press for more adequate protective legislation. As the leadership of the C. G. T., inspired by Léon Jouhaux's coöperative attitude, turned to reformism, such conservative Prime Ministers as

<sup>13</sup> Law of 21 March 1884. Provisions of the Penal Code prohibiting labor "coalitions" had been partially removed in 1864.

<sup>14</sup> These deal respectively with labor contracts, regulation of labor conditions, trade-unions, and the settlement of industrial disputes. Three other sections, projected but not yet completed, are to treat social insurance, savings, and relief.

Poincaré and Tardieu apparently concluded that the best way to combat communism was to accept some, at least, of the social reforms sought by labor.

Only a few months after the Armistice, Parliament limited the working day to eight hours, and the working week to a maximum of forty-eight hours, in industrial, mining, and commercial establishments. Only agriculture, domestic labor, and the liberal professions were left outside the scope of this legislation. During the inflation period a bitter attack was launched by employers and chambers of commerce against the eight-hour day, but one Left Bloc Minister of Labor after another, aided by mass counter-protests from the C. G. T., successfully defended the law. Simultaneously, the earlier Sunday rest laws were amended so as to cover employees of newspapers and advertising agencies, although numerous categories of workers—on the farm, on the railways, and in professional offices—still did not benefit from a compulsory weekly rest day. In 1928 the prohibition of night work by women and children in factories, mines, quarries, and workshops was also inserted into the Labor Code.

This long series of enactments designed to limit the duration of labor reached a climax with the adoption of the forty-hour week statute by the first Popular Front Parliament.<sup>15</sup> By the terms of this sweeping reform, the Government was directed to issue regulations applying a forty-hour week to all industrial and commercial enterprises, public as well as private, with the further stipulation that reduction in hours should not be accompanied by any lowering of the employee's weekly pay or standard of living. Realizing the difficulty of adapting such a drastic reform to widely varying industries and regions, the Government proceeded slowly with its forty-hour decrees. The law allowed it to act either on its own initiative or at the request of the employers' or workers' organizations. Coal mining was the first industry to be so regulated, but not until three months after the passage of the law. Within a year, however, some sixty decrees had been issued covering over 90 per cent of all workers in concerns employing a hundred workers or more.

A primary objective of the forty-hour law had been to

<sup>15</sup> Law of 21 June 1936. For its text in English translation, cf. the *Source Book*, II-81.

spread employment. In this respect its effects proved rather disappointing. Not only was it difficult to control enforcement of the new regulations in seasonal industries, but the imposition of a rigid five-day, eight-hour arrangement caused many plants to lie idle for two days a week. This in turn tended to curtail production and employment. In the retail trades, in banks, and especially in the hotel and restaurant business, the new regulations gave rise to so much inconvenience to the general public that exceptions had to be made, especially during the 1937 Paris Exposition. Difficulties were also encountered in applying the forty-hour principle to various categories of government and public utility employees.

By the closing months of 1937, what with domestic production costs so high that French business, despite the stimulus of two successive monetary devaluations, was finding itself unable to compete for foreign markets, the Chautemps Government instituted an investigation looking toward ways of speeding up industrial output. In December the Government's Committees of Inquiry, which included both labor and employer representatives, unanimously recommended a flexible adaptation of the forty-hour law to meet the special conditions prevailing in different industries. Measures to this end were taken by the Daladier Government in the summer of 1938. Thus it appears that while the principle of the forty-hour week will be retained, its full application is not likely to be realized in France until and unless the outside industrial world is willing to accept a comparable limitation. In view of the policy of economic autarchy practiced by Germany, Italy, and Japan, the outlook is not promising.

Although the forty-hour week reform encountered rough "economic" seas, there was virtually no opposition to a companion measure which became law only a few days earlier. This second act stipulated that all employees in industry, commerce, and the liberal professions should receive minimum annual vacations of two weeks with full pay, after one year's continuous employment.<sup>16</sup> This reform was hailed by the Blum Government as a part of the new "charter of leisure" promised by the Popular Front program.

<sup>16</sup> Law of 20 June 1936. All classified grades of the government service have since 1925 been entitled to at least three weeks' annual vacation leave on pay, most higher officials receiving as much as a month.

State regulation of wage rates has been neither so direct nor so extensive as the effort to restrict the duration of labor. During the World War a minimum wage law was enacted, but it affected only garment workers and certain related industries employing women in the home. Under this Act, wage committees set up in each *département* compute the average daily wage paid in the region for analogous types of work. Other committees of "professional experts" reckon the time required to finish each product. The hourly minimum rate is arrived at by dividing the average daily wage by this predetermined number of hours. If employers fail to conform to these findings, they may be summoned by the trade unions before a justice of the peace, an industrial court, or a special government agency (*Office français du Travail à domicile*).

Except in these "sweated trades," the only legal sanction for a minimum wage is to be found in provisions which must be inserted into public works contracts made with private construction firms by the central government—as well as, optionally, by local authorities. All labor employed under such contracts must receive the "normal" wage paid to each occupational group in the city or region where the construction takes place. The normal rate is that set by collective wage agreements in private industry; failing such agreements, it is fixed by special bi-partite boards of employers and workers.

Since 1932 the national labor code has further required all regular employers to pay family allowances to their workers. Such allowances supplement the regular wage by fixed amounts which increase with each additional dependent child up to a specified maximum. The costs are distributed among employers by "compensation funds," as approved by the Ministry of Labor. In 1934 the compulsory payment of family bonuses was extended by law to the personnel of local public authorities. This principle now applies to practically all persons working for wages or salaries except domestic servants.

For the most part, wage levels in France are the result of free collective bargaining between labor and employer organizations. Following the legal recognition of trade-unionism in 1884, the Government was gradually forced by pressure from labor to accord a legal sanction to collective labor agreements. General legislation of this character, however, was not adopted until shortly after the World War. The bargaining procedure

envisaged by this legislation not only depended upon the mutual consent of employers and labor, but proved too complicated for effective use. As the C. G. T. declined in strength, big employers assumed an autocratic attitude. Consequently, one of the first reform measures of the Blum Popular Front régime was a statute designed both to simplify and to make compulsory the procedures of collective bargaining. This act, passed in June 1936, issued from dramatic circumstances. A wave of "sit-down" strikes affecting a million workers had swept over France during the preceding month. Although the Prime Minister admitted the illegality of this unique non-violent form of strike, as a good Socialist he refused to employ force for the evacuation of the workers. Instead, the Confederation of French Production was prevailed upon to conclude collective wage contracts, to impose no discrimination against trade-union members, whether strikers or not, to raise wages from 7 to 15 per cent, and to allow workers to elect shop committees for the adjustment of other grievances. On these conditions the General Confederation of Labor agreed to order a cessation of the strikes. A mutual pledge to this effect was signed by representatives of the two organizations at the Prime Minister's official residence. Popularly, this agreement became known as the "Matignon Accord."

For the purpose of legally implementing this accord, as well as to carry out one of the chief planks in the Popular Front platform, a Collective Wage Agreement Act was rushed through Parliament. By this law the Minister of Labor, upon the request of any labor union or employers' association, is directed to hold a meeting of a "mixed commission for the negotiation of an agreement for any branch of industry or commerce in any region or for the whole country." All such collective agreements must provide for the complete freedom of labor to organize, the election of shop councils, minimum wage rates by occupational or regional areas, the giving of notice prior to dismissal, the regulation of apprenticeship, a procedure to adjust disputes arising out of the application of the agreement, and subsequent revisions of labor contracts. By the end of 1936 over 2000 such contracts had been concluded.

Although the foregoing statute empowered the Minister of Labor to mediate in the event employer and employee repre-



sentatives failed to reach agreement, a fresh outbreak of strikes occurred in the autumn of 1936. The official leadership of the C. G. T., by then swollen to over 5,000,000 members, seemed incapable of controlling irresponsible extremist elements within its ranks, let alone outside. Recalcitrant employers, moreover, refused to abide by the spirit of the Matignon Accord. The labor situation again grew so tense that Parliament provisionally conferred upon the Government the power to elaborate more effective conciliation and arbitration procedures.

Acting upon the powers granted by this Act, which was to expire by the end of 1937, the Government required all labor disputes to be submitted to conciliation or arbitration before any strike or lock-out could legally be undertaken. Arbitral decisions were given compulsory effect without appeal. But no sanction was provided in case of refusal to abide by an arbitral award. There was no intention, admitted Premier Blum, to deny the right to strike. Nevertheless, in 43 cases out of 53 during 1937, it was the employer who refused to obey awards. This attitude so exasperated the workers that a new epidemic of "stay-in" strikes (though on a smaller scale than in 1936) broke out as the year 1937 drew to a close. The most menacing of these labor disturbances was an unofficial strike of 100,000 Paris public utility employees which temporarily paralyzed transportation, lighting, and garbage collection services in the metropolitan area. After a prolonged but futile attempt to mediate the issue, Premier Chautemps threatened to "mobilize" the workers under military order and requisition utility plants unless they returned to work. Following the precedent set by Premier Briand in 1910, when a nationwide railway strike was broken by issuing a military mobilization order, this threat proved sufficient to induce the utility employees to accept a compromise settlement after only one day's idleness. During the early months of 1938, however, fresh strikes occurred in the automotive and munitions industries.

Notwithstanding all the legislation intended to facilitate agreement between capital and labor, the French labor world has not ceased to view the strike as a necessary weapon of economic and "republican" defense. To this attitude subordinate government employees are as firmly addicted as workers

in private industry. So long as French labor retains the democratic right to organize and bargain collectively with employers, its status will have little in common with the government-controlled labor syndicalism of the Italian corporative state. At the same time, French opinion generally recognizes that a fuller development of the labor code governing hiring, firing, and the settlement of labor disputes will be necessary before industrial relations can be placed on an orderly basis. As one step to this end, the Government, by May 1938, had laid down the principle that a secret ballot must be taken prior to calling a strike, workers striking in disregard of a majority vote to be subject to prosecution, as would employers who locked out employees after a legal strike.

### 3. *Social Security.*

Up to ten years ago social insurance in France had developed in a very haphazard and piece-meal manner. As far back as the 1850's, the State set up a compulsory scheme of disability and retirement pensions for non-manual workers on the payroll of the central government.<sup>17</sup> This system was financed by joint contributions from employees and the national Treasury. Another special group to benefit from an old age pension scheme were the railway workers, for whom retirement funds had been voluntarily created by the companies at the end of the last century. In 1909 railway retirement pensions, financed by joint employer-employee contributions, became legally compulsory. Although an old age pension fund for mine workers was established in 1894, it remained under the control of the mine operators for twenty years, when additional legislation transferred the administration of the fund to an independent council representing the State, the operators, and the miners, and made contributions on a 2 per cent basis compulsory from both owners and workers. The first comprehensive old-age pension legislation came in 1910. Although this act applied to all industrial, commercial, and agricultural workers, its provisions were so vague and the scale of pensions it provided was so ridiculously low that it proved a complete failure.

<sup>17</sup> Law of 9 June 1853. This act was strengthened and its scope enlarged by the law of 14 April 1924, which now constitutes the fundamental charter for the State employee superannuation system. Cf. p. 162, *supra*.

In the meantime, the State had in 1905 begun to subsidize unemployment relief funds set up by trade-unions. A decade later (1914) local government authorities were also authorized to grant subventions to such funds. Simultaneously, a small national unemployment fund was created with a view to aiding local relief efforts. In conjunction with unemployment relief, the State, beginning in 1904, required all municipalities of over 10,000 population to maintain non-paying offices for the placement of workers. But the coverage of these local offices did not extend to the smaller towns and rural areas. Consequently, some years after the War, prefects were empowered to order employment exchanges established on a "county" basis, the costs of administration becoming mandatory charges on the budget of the *départements*. In order to encourage the development of placement agencies at both these levels, the State now provides subventions from the national Treasury on a steadily increasing scale. Today one or more public placement bureaus may be found in every *département*, as well as in all the larger municipalities of the country. Seven regional and one central office are also directly operated by the Ministry of Labor for the purpose of coördinating employment statistics and the exchange of information on the supply of and demand for jobs.

In 1928 the admittedly haphazard nature and inadequacy of the legislation dealing with old age benefits culminated in the establishment of a general social insurance scheme embracing the hazards not merely of old age, but of pre-mature death, sickness, disability, and maternity as well. This plan went into effect in 1930. Five years later its administration was improved by certain of the Laval decree-laws, while the income groups it covered were further enlarged and the scale of benefits increased by the Blum Popular Front Government of 1936. Thus, under the double impetus of a powerful labor movement and the recent economic depression, France is at last endeavoring to bring its social insurance legislation up to something approaching the level of the British and Scandinavian systems.

As the French system now stands, it compulsorily covers all employed persons of either sex whose total yearly earnings do not exceed 25,000 francs, with additional allowances for each dependent child up to three or more. For persons at

higher income levels, the plan is voluntary. Contributions equal to 4 per cent of the wage or salary received are assessed upon employees and employers respectively. At the age of sixty, workers employed for thirty years are entitled to retirement annuities amounting normally to 40 per cent of their average annual wage. If the insured worker dies prior to the pensionable age, his widow or dependent children receive a lump sum. In case of illness, free medical and hospital care is provided by the State, along with a daily allowance which partially compensates for loss of pay. The amount of this allowance varies with the number of dependents in the insured's family. The insured individual chooses and pays his own physician, but is reimbursed from social insurance funds. The scale of medical fees that may be charged is fixed locally by agreement between the medical profession and the social insurance authorities. After six months, if the insured person's capacity to work has been materially reduced, the law accords him an invalidity pension not to exceed 40 per cent of his previous wage. These benefits also accrue when disability is the result of accident unrelated to the performance of the worker's job. For injuries incurred in line of duty, the worker is entitled to compensation under the workman's compensation law.

A notable feature of the system is the provision of free medical assistance to women during pregnancy and for six months after childbirth. This applies both to insured *female* workers and to the wives of *male* insured workers. If the mother is employed, she is given a daily cash allowance for six weeks before and after child delivery, provided she refrains from working during the entire period.

Only in a limited sense is the contingency of unemployment covered by the general insurance system. When the Act of 1928 was adopted, there was practically no unemployment in France and the problem did not appear important. The law, however, did provide that when an insured worker remains involuntarily unemployed for at least fifty days and is registered with a public placement office, his full rights to other forms of benefit under the insurance scheme shall be guaranteed for a period of six months.

The administration of social insurance legislation is exceedingly complicated. There are two reasons for this: (1) the de-

sire to encourage local voluntary initiative on the part of the workers, and (2) the retention of certain of the funds and agencies already functioning under the earlier old age pension laws. There are two types of local agencies to which payments may be made by employers and employees. The first consists of local funds established by mutual aid societies upon the initiative of labor organizations or other groups of insured workers. The second type consists of government offices, organized on a departmental or regional scale and managed by a council composed of employee and employer representatives, plus two physicians. The voluntary agencies, which may administer only sickness and maternity benefits, are really auxiliary to the public offices. The latter not only take care of the insurance accounts of all workers who do not elect to go into a voluntary fund, but are made exclusively responsible for managing the capitalized funds out of which invalidity, old age, and death benefits are paid. The Minister of Labor exercises general supervision over all these local and regional services. To advise him there is a National Social Insurance Council consisting of representatives of the various local funds, occupational groups, and independent experts. Under the joint control of the Ministers of Labor and Finance, there is also an autonomous guarantee fund to which the State makes certain direct financial contributions with a view to insuring the full payment of all benefits, although in theory the whole system is supposed to be self-supporting. The financial operations of all local insurance agencies are verified by field inspectors operating under the joint jurisdiction of the Ministry of Labor and the National Guarantee Fund.

As already indicated, unemployment compensation has not been provided on an obligatory insurance basis. Despite the marked rise in the number of unemployed during the recent economic depression, employer hostility to any form of unemployment insurance has thus far been strong enough to prevent its inclusion in the social insurance system. At the same time, when substantial unemployment became chronic, the traditional type of local poor relief, supported exclusively by municipal revenues, broke down in many communities. It was recognized that the resources of the national Treasury would have to supplement local efforts. While central grants-in-aid

to local unemployment relief funds had been in use on a small scale for a generation, they have been greatly increased since the 1930's and are now so apportioned as to equalize, at least in some degree, the burden of providing unemployment relief. Recently, moreover, the establishment of public relief funds has been made obligatory in the larger municipalities, while the *départements* are authorized to set up relief administrations on a unit basis for the entire area within their boundaries. By 1937 over 1600 local unemployment relief offices were in operation throughout France. The jurisdiction of these bureaus embraced 4800 communes containing 25,000,000 of the total population. Seventy-one of the offices were maintained at the departmental level (covering slightly more than 3000 communes), twenty-six were inter-communal in scope, and the rest were municipal.

Central government subsidies to local relief funds are graduated in proportion to the number of unemployed per population. If the number does not exceed ten per thousand inhabitants, the State contributes 60 per cent of relief costs. As the ratio increases, the percentage rises to a maximum of 90 if and when the proportion of unemployed exceeds thirty per thousand. No account appears to be taken of the differential capacity of local government units to finance relief expenditure. It is evident, however, that the major portion of the relief burden is now borne by the national Treasury.

The Ministry of Labor lays down certain conditions which must be observed by the local authorities in granting relief. The maximum daily allowance, for example, is stipulated, as well as the scale of supplementary allowances for dependents. A further regulation imposed by the central authorities is that, in order to be entitled to unemployment benefits, a worker must have been employed for six consecutive months in the *département* where he lives. By special arrangement the national authorities assume the responsibility for taking care of transients. While relief may be given in the form of either free meals or grocery orders, the central Government recommends cash allowances because of the difficulty of insuring an honest distribution of foodstuffs locally.

On the whole, organized labor is hostile to the existing State-aided, locally administered scheme of unemployment relief. This opposition is based on two contentions: (1) that

the scheme cannot be efficiently administered and (2) that it has not provided adequate standards of relief uniformly throughout the country. One of the major proposals in the Popular Front program of 1936 (not yet realized) was the establishment of a national relief system to be financed entirely by the national Treasury. To replace ultimately this transitional arrangement, industrial trade-unionism further advocates that compulsory insurance against the hazard of unemployment should be set up by the State on a permanent basis. For the time being, decline in unemployment totals has postponed the adoption of any such plan. But the proposal is certain to be pressed again if unemployment reappears on a scale comparable to the early 1930's.

#### *4. Social Hygiene, Housing, and Recreation.*

As late as fifty years ago, governmental activity in the domain of social hygiene remained purely a local matter. Supplementing the charitable institutions of the Church, the larger and wealthier French cities established modest services for the care of indigents, the physically and mentally defective, and homeless children. In the smaller towns and rural areas, however, organized public welfare agencies were unknown. Except for treatment of the insane, the central Government evinced little or no direct interest in the welfare field before the 1880's. In 1886 a special service to coördinate municipal welfare institutions and encourage public health work was established in the Ministry of the Interior. Shortly after the World War, this and certain related services were unified in a separate Ministry of Health, Social Assistance, and Social Insurance. Five years later, however, its functions were absorbed into the Ministry of Labor—allegedly in the interest of economy, but actually because French public opinion still remained singularly indifferent to the importance of social therapeutics. At last aroused to the gravity of this policy of neglect, the Academy of Medicine began a campaign for the creation of a Ministry of Health with far-reaching powers. Eminent French medical specialists who participated in the public health inspection tours to other countries, then being sponsored by the Health Organization of the League of Nations, had made the startling discovery that the public health

work of their country lagged woefully behind that of the Scandinavian and Anglo-Saxon nations. National pride impelled the French medical profession to seek a remedy for so humiliating a situation. The upshot was the passage of a national law in 1930 reestablishing a separate Ministry of Public Health, to which all existing services relating to health, aid to defectives and indigents, and housing, were transferred. Although France still has considerable way to go before its health and welfare services can attain the effectiveness of those of other great countries, steady progress is being made to this end. Since 1930 national appropriations for public health work have quadrupled. During the past decade infant mortality has declined from 10 to 7 per cent of the total number of births. The death rate from tuberculosis, however, still remains twice as high as in England or Germany.

The Ministry of Public Health performs a variety of functions. First of all, it is responsible for the management of certain welfare institutions and research centers which are exclusively financed out of national funds. These institutions include hospitals for the treatment of certain diseases, an asylum for the curable insane, schools for the deaf, dumb, and blind, a maternity hospital, physical education schools, thermal establishments, and venereal research laboratories. Secondly, the Ministry of Health, aided by the Inspectorate of the Ministry of the Interior, serves as an agency for the subsidization, inspection, and general supervision of welfare and health services maintained by local government authorities. Institutional relief to aged, infirm, and incurable indigents is provided chiefly at the departmental level. Financial aid for the care of three or more dependent children by a single needy parent is similarly administered, although in this case the State and *commune* share costs with the *département*. The institutional care of homeless children is a primary responsibility of the *département*, but the cost is distributed among all three levels of government. Care of the insane must also be provided by every *département* either by maintaining a publicly supported asylum or by contracting with private institutions. Tuberculosis sanitaria must be established either by single *départements* or by joint arrangement between two or more neighboring *départements*.

Supplementing these departmental services, most of which



are now obligatory, the larger municipalities may set up or subsidize charity hospitals out of local resources—taxes, gifts, legacies, etc. Some of these hospitals are essentially private establishments dating from the eighteenth century and drawing upon a private patrimony; others depend entirely upon public support. The administration of all private charitable institutions in France is now subject to supervision by the national health authorities.

The third function of the Ministry of Health is to collaborate with local authorities, chiefly at the municipal level, in the enforcement of national legislation designed (1) to prevent the spread of contagious disease and (2) to improve the general health of the community. Since 1902 it has been obligatory for every *commune* to enact a local sanitary ordinance, while in all cities of over 20,000 population the maintenance of a permanent public health office (*bureau d'hygiène*) is compulsory. Local health ordinances must incorporate all the national requirements pertaining to vaccination, segregation and disinfection during epidemics, the sanitation of streets, parks, public buildings, and private lodgings, and the purity of water, milk, and food supplies. The inspection of food and water is carried out by agents of the Ministry of Health, while dairies and slaughterhouses come under the surveillance of the veterinary service of the Ministry of Agriculture. National law accords protection to the consumer by penalizing the fraudulent sale of processed foods and drugs, including patent medicines. Health inspectors bring samples to a national laboratory to be tested. If the tests show the ingredients to differ from what is indicated on the label, legal proceedings may be instituted against offenders after consultation with the medical profession.

During the last few years, belated attention has been given to improving the health of French school children. In 1930 medical inspection in the public schools, formerly under the Ministry of Education, was strengthened and placed under the jurisdiction of the Ministry of Health. In 1937 a decree issued by the Popular Front Government coördinated all agencies dealing with child health under the Social Hygiene Service of the latter Ministry, then headed by Henri Sellier, long noted for distinguished pioneer work in the movement for better health and housing facilities. This service operates

a central bureau for the training of public school nurses and carries on an active campaign through the press, cinema, and radio for the establishment of local maternity and infant welfare centers, as well as anti-venereal clinics.<sup>18</sup>

The problem of juvenile delinquency falls under the supervisory jurisdiction of the Ministry of Justice, rather than under the Ministry of Health or of Education. The reason for this is the fact that the former Ministry has always had under its charge the management of correctional and penal institutions, including reform schools and juvenile courts. In addition, the Ministry of Justice conducts a research and information service on the problem of abandoned children.

Finally, the Ministry of Health administers legislation for the promotion of low-cost housing. Interest in this problem became important fifteen years ago. The cessation of housing construction during the World War, plus the high cost of labor and building materials that followed the peace, produced an acute housing situation, which of course adversely affected the birth rate. In 1922 Parliament passed a law granting real estate tax exemptions, liberal loan arrangements, and public subventions to local low-rental housing projects. Further legislation enacted during the past decade has extended similar inducements to housing enterprises designed for persons at the "middle income" levels. The initiative for such housing projects may be taken by private groups, e.g., coöperative building societies, or local public bodies. If no other form of action is taken, the *département* must establish a public housing office. Under the sponsorship of these offices, a considerable number of low-rent housing projects have been completed, notably in the suburban areas around Paris and other large centers. These "garden cities," as they are called, include the single dwelling as well as the coöperative apartment type of construction. By the end of 1935 there were over 300 public housing agencies, 80 of them being departmental, a few inter-departmental, and the rest municipal. Accompanying urban housing progress are ambitious plans for metropolitan beautification. Now that Paris has demolished the ring of fortifications that used to surround the old city, it hopes, by

<sup>18</sup> Some 300 of the former and 700 of the latter type of clinic are now functioning. Cf. the "Child Welfare Information Centre," *Serial League of Nations Pubs.*, 1937. IV. 6.

organizing its suburbs, to become the "city of air" in addition to being the "city of light."

The movement for better housing has recently been supplemented by national efforts to improve recreational facilities for the masses. To this end the Blum Government of 1936 created a Division of Sports and Leisure in the Ministry of Public Health. In connection with the legislation establishing annual paid vacations, special holiday excursions at reduced rates are now being organized so that thousands of city workers may enjoy the glories of mountain and seaside for the first time in their lives. In addition, the building of athletic fields, stadia, tennis courts, and swimming pools, long deplorably lacking in France, is being encouraged by public works grants to municipalities from the national Treasury. Here the Government's aim is not only to induce young people to become strong and athletic, but to afford them the pleasure of participating in physical culture and sports competition. Unlike the athletic "regimentation" of youth under fascism, however, the French program contains no element of compulsion. Nor has it any administrative connection with the military establishment.

The development of open-air sports and games, along with the spread of the cinema and radio, appears to be turning the French worker away from his proverbial café. Among the masses there is less drinking than before the World War, while much better food is being eaten. On this point, says a recent report on nutrition issued by the League of Nations, "employers and employees are in absolute agreement. . . . At the same time homes have become more comfortable."<sup>19</sup> It would indeed be tragic if the fanatical devotion to "cannon instead of butter," which now obsesses the rulers of France's eastern neighbor, should prevent any further extension of the amenities of life to peacefully inclined Jacques Bonhomme!

<sup>19</sup> Quoted in the *New York Times*, 6 Aug. 1936.

## CHAPTER X

### THE ENFORCEMENT OF OFFICIAL RESPONSIBILITY

Broadly considered, the governmental process in a democracy involves three types of operations. Community policy must be translated into legal rules and administrative services. These rules must be executed and the services operated. Finally, there must be ways of ensuring that the official administrators will act in accordance with the policy laid down by law. This third element is indispensable if the result is to be *responsible* government. Otherwise, official power, even though it be directed by individuals who belong to the representative legislature, may easily degenerate into *arbitrary* authoritarianism.

The preceding chapters of this study have examined how the French parliamentary system functions with regard to the first two parts of this procedural trilogy. The third element, however, has received only incidental attention. It is now necessary to look more closely at this control aspect: what sorts of sanctions are available with a view to securing the responsible exercise of governmental power?

These sanctions vary in their incidence. Some of them operate indirectly and externally, i.e., they emanate from outside the formal institutions of government. Others consist of internal checks exerted by one branch of government over another. Or, from a different angle, certain of them bear upon the general direction of policy, while others are concerned with its concrete application to specific situations and individuals. All of them, however, operate concurrently and tend to overlap one another. For this reason it is not easy to distinguish the forces that *determine* the content of policy from the forces that *control* its administration.

The instrumentalities of control may be broadly classified under the following three heads:

(1) public opinion as it manifests itself *between* popular elections—largely on indirect and external sanction;

(2) the mechanisms of parliamentary control over the executive; and

(3) judicial safeguards against the abuse of administrative authority, the last two being essentially direct and internal in their incidence.

### 1. *Public Opinion as a Sanction.*

In considering how public policy is formulated, we have already had occasion to touch upon the nature of this sanction. In essence it flowers from the heritage of political freedom which makes every Frenchman a potential critic of his governors. It would indeed be hard to find a country where political discussion is more vehement or profuse. In the salon, the café, the club, and the press, as well as through innumerable civic organizations, economic interest groups, party committees and congresses, the issues of politics, foreign as well as domestic, are seldom in the background. For the typical Frenchman, whether of bourgeois or proletarian origin, there is only one topic of conversation that can rival politics in its ubiquity. This is gastronomy—the art of eating and drinking! Even the subtleties of sex and art are forced into second place behind *la politique* and *la cuisine* as subjects of every-day interest.

The art of caricature, in which the French excel, plays no unimportant part in the game of politics. The pen of a clever humorist may do more than all the parliamentary critics put together in bringing down a cabinet. Political satire, moreover, is a favorite theme for the dramatist and novelist—as witness the works of such writers as Balzac, Brieux, and Courteline.

The peculiarities of French temperament and French history have converged to produce a deeply seated mistrust of authority. Bitter and sanguine struggles against tyranny in the past have left memories which tend to cloak with suspicion every effort to strengthen the executive power of the present-day State. Popular opinion is much more easily aroused *against* alleged abuses of public authority than *in support* of

additional grants of power to officialdom. This is particularly the case whenever it is proposed to expand the authority of an individual executive official—be he prime minister, department head, prefect, or mayor! "The republican ideal is in truth a State that contains the least power possible."<sup>1</sup> While such an ideal is obviously unrealizable in the complex society of twentieth century France, it still profoundly affects the attitude of every major political group in the country. This helps to explain why syndicalism, which is ideologically imbued with hostility to the aggrandizement of State bureaucracy, has imposed so deep an imprint upon the French labor world. It is this fact, moreover, that accounts for flanking the administrative officials with so many advisory committees of citizen representatives. Nor can it be doubted that these quasi-public functional groups aid greatly in articulating popular control over the formulation and execution of official policy.

*Pressure Groups.* Outside as well as within the orbit of these formalized advisory mechanisms are voluntary citizen groups which exercise a constant vigilance over the acts of ministers and *fonctionnaires* alike. Most notable among these organizations is the League for the Defense of the Rights of Man. Comparable in nature to the American Civil Liberties Union, this association of liberal intellectuals has time and time again succeeded in mobilizing the public conscience against the illegal exercise of power—in cases involving arbitrary arrest and false accusation, seizure and search, police brutality, attacks upon freedom of speech and press, violations of the military code, and the persecution of religious, racial, or political minorities by reactionary officials.

In varying degree since the World War, the course of French foreign policy has been influenced by pressure from a mass peace movement. At its forefront stands the powerful Union for the League of Nations, headed for the past few years by former Air Minister Pierre Cot. Under the leadership of this organization, the peace movement, embracing scores of separate groups, was recently federated into a united bloc of 15,000,000 members—over half of the adult popula-

<sup>1</sup> R. Capitant, "La Crise et la Reforme du Parlementarisme en France," in the *Jahrbuch des Öffentlichen Rechts der Gegenwart* (Tubingen, 1936), p. 19.

tion of France. It was due principally to its advocacy of sanctions against Italy that the pro-fascistic attitude of the Laval Cabinet shifted in the autumn of 1935 to support of the League of Nations, albeit not soon or completely enough to undo the damage caused by Laval's earlier vacillation. The spontaneous pacifism of the French masses was the source of M. Briand's preëminence as European peace-maker during his long occupancy of the Quai d'Orsay. "When he spoke in country villages, the peasants came in tens of thousands to endorse his policies at Geneva. His opponents knew that he had behind him a solid body of French public opinion which looked to him to make its ideals articulate."<sup>2</sup> Although the vitality of this mass pacifism ebbed considerably during the early 1930's, it has vigorously reasserted itself under the aegis of the Popular Front movement. At present, rearmament may be a tragic necessity for a country facing fascist aggressors on two of its borders, but the French peasants and workers, if they had their way, would probably never fight again except strictly in defense of the homeland.

For organized labor, consumer groups, and the peace movement, the favorite technique of "pressure politics" is the mass demonstration. This technique includes not merely the holding of indoor mass meetings and the presentation of petitions to the Government, but also the staging of open-air assemblies and monster processions in which thousands of marchers wave banners and flaunt defiant placards. Such demonstrations are not merely sporadic affairs. Since the World War they have been employed almost as frequently as "cabinet crises" occur! Bastille Day affords an annual occasion for a grandiose street mobilization of the loyal forces of democracy and labor. On 14 July 1936, nearly a million people tramped through the Paris streets to commemorate the capture of the Bastille and celebrate the electoral victory of the Popular Front. The provincial cities were the scene of similar demonstrations on a lesser scale.

While the "battalions" of the political and economic Right by no means forego mass demonstration techniques, their brand of pressure politics tends rather to rely on the insidious procedures of under-cover political blackmail, lobbying, and

<sup>2</sup> J. T. Shotwell, *On the Rim of the Abyss* (New York, 1936), p. 17. By permission of The Macmillan Co., publishers.

manipulation of opinion through the press. The "power of money" *à la française*, like the power of money *à l'américaine*, does not hesitate to take full advantage of its entrenched position in the economic system. In passing, we have already noted how the moneyed interests have used the Bank of France as a political "pressure" instrument. Such powerful groups as the French Confederation of Employers, the *Comité des Forges*, and the National Taxpayers' League resort to machinations which have ofttimes caused cabinets to alter or abandon social reform projects even before they were submitted to Parliament, still more, to weaken their administration after they became law.

*The Press.* As an agency of popular control, the French press has no counterpart in any other democratic country. Its curious make-up reflects peculiar paradoxes of the French mind. Until a half century ago the press served almost exclusively as a medium for the propagation of ideas. Even today only a few of the thousands of newspapers published in France pretend to be concerned primarily with the impartial dissemination of news. Most of the smaller newspapers are owned either by single individuals or by political groups, and are therefore utilized to advance a particular point of view. The numbers of these *journaux d'opinion* are legion—15 of the 34 Parisian dailies being organs of political groups. To name but a few of these, running politically from Right to Left: *L'Action française*, the royalist mouthpiece of Charles Maurras and Léon Daudet, long noted for its literary brilliance; *Le Jour*, a strongly pro-fascist paper; *l'Avenir* and *La Victoire*, organs of conservative republicanism; *Quotidien*, *Oeuvre*, and *Ere Nouvelle*, representing various shades of orthodox "radical" opinion; *Le Populaire*, the official Socialist daily edited by Blum; *Le Peuple*, published by the C. G. T.; and *l'Humanité*, the vitriolic organ of the Communist party. Important provincial papers of a less strongly political complexion include *La Dépêche de Toulouse*, leading Radical Socialist organ in the Midi; *La Petite Gironde* of Bordeaux; *le Progrès du Lyon*; *l'Echo du Nord* of Lille; and *les Dernières Nouvelles* of Strasbourg. None of the *journaux d'opinion* enjoys a large circulation as judged by American metropolitan standards. Their physical size is so small (usually four to eight pages) that, free from the obligation of providing an



expensive news service of their own, they may be published at a comparatively low cost which is largely defrayed out of party coffers or the personal funds of the editor. Such papers carry little paid advertising. The French temperament does not take kindly to commercial publicity *per se*, although it is often difficult to distinguish editorial from advertising matter.

Standing somewhat apart from the political or personal press, although without being primarily interested in news, are three Paris papers celebrated for "elegance and purity of style, well balanced judgment, delicately tempered wit." In this group are *Le Journal des Débats* (the oldest newspaper in France), *Le Figaro*, and *Le Temps*. In their political sympathies, as well as their artistic and philosophic views, all three wear conservative dress; but they have no direct connection with any organized party. Until the recent advent of predominantly leftist governments, *Le Temps*, in particular, tended to reflect the views of the Quai d'Orsay on foreign policy. Of late, however, this paper, though its literary quality still stands second to none among leading Paris papers, has been openly critical of Popular Front governments.

Despite the preference of most Frenchmen for news salted with doctrine, modern commercial journalism is making steady inroads on the old-styled press. Today an increasing number of Paris newspapers may definitely be classified as *journaux d'information*, sold all over France, with circulations ranging from 200,000 to 1,800,000 each. Until it was absorbed by *Le Jour* in March 1938, *l'Echo de Paris* was included within this group, among which are such widely read papers as *Le Matin*, *Le Journal*, *Le Petit Parisien*, and *Paris-Soir*. These dailies endeavor to steer a neutral course between conservatism and radicalism, but tend to favor whatever government happens to be in power. Since they have the largest number of readers, these papers (along with *Le Temps*) are the chief beneficiaries of subsidies paid from the secret funds at the disposal of the Ministries of Foreign Affairs and the Interior. Indeed, it may almost be said that they "take orders" from the Quai d'Orsay! Control over this *grande presse*, however, rests in the last analysis with powerful combinations of private capital. "The steel trust, or *Comité des Forges*, under the control of the De Wendel family, owns the majority of stock in a score of Paris and provincial papers, including *Le*

*Temps*, *Le Journal*, *Le Journal des Débats*, and also controls the *Journée Industrielle*, and is a power in the management of *Le Matin*, *l'Echo de Paris* and the Agence Havas," the last being the largest news gathering agency in France.<sup>3</sup> *Le Matin* has at times been subsidized by the Schneider-Creusot munitions concern and various foreign oil trusts (as has also *Le Temps*). Two big banks hold an important interest in *La Liberté* and *Le Journal*, while François Coty, celebrated manufacturer of perfumes, owned *Figaro* and *l'Ami du Peuple* at the time of his death a few years ago.

The effect of the French press as a whole upon the course of public opinion is difficult to estimate. Partly because they are so cheap, the Frenchman habitually reads several different newspapers, always including, however, one that represents his own political views. The French press seldom exercises a decisive influence on the outcome of national elections. In 1924, for example, the preponderant newspaper view was that the Poincaré nationalist bloc would win over the Herriot *Cartel des gauches*; but the people voted otherwise. Despite their national circulation, the great Paris newspapers are a poor indicator of the pulse of national opinion. Freer of control by organized money, the provincial press more faithfully indicates the axis of popular sentiment. Journalistically speaking, Paris is to the "right" of the rest of the country. It is chiefly the organs of the advanced Left—the Socialist and Communist parties—that exert an important influence upon their readers. The other newspapers may at times translate political opinion, but they rarely mould it.

The picture looks different, however, when one attempts to measure the effect of specific press campaigns upon the behavior of Parliament and Cabinet. "The political world of Paris," aptly observes Middleton, "is like a vast outer lobby seething with discussion. . . . Intrigues of persons and vagaries of groups which bewilder the electorate are debated by expert onlookers as well as by the nine hundred Senators and Deputies who are taking part in the game. Here is a public for the *journal d'opinion*. It is a public which can be influenced directly and instantaneously."<sup>4</sup> Political editors like

<sup>3</sup> R. W. Desmond, *The Press and World Affairs* (New York, 1937), p. 209. By permission of the D. Appleton-Century Co., publishers.

<sup>4</sup> *Op. cit.*, p. 219.

Tardieu and Henri de Kerillis on the Right, or Herriot and Blum on the Left, may, by hammering away on some particular issue, create a psychological situation which will undermine or even bring down the Government in the Chamber. Although the press may operate mainly as a negative instrument of control, it not infrequently conducts political inquiries on its own, sometimes forcing legislative or administrative action. Before the War, the repeated publication of a list of German armaments by certain nationalistic papers in Paris led to the adoption of the three-year military service law. After 1930 the barrage of the munitions-controlled press helped to undermine M. Briand's policy of rapprochement with Germany.

The handling of the Stavisky scandal of 1933-34 illustrates the virtues and vices of the French press. On the one hand there was the sordid spectacle of newspaper corruption, nourished partly by lavish "financial publicity" from the swindlers themselves, partly by secret subsidies from government officials who wanted to "hush up" the affair. On the other hand, official connivance with graft was vigorously denounced by important independent newspapers, especially in the provinces.

On balance, it is fair to conclude that while the French press is legally free to print what it pleases, many papers are in fact subservient to powerful economic and political interests. The attempt to guarantee freedom of the press by law "has tended to multiply the sources of what might be called illegitimate income." Under existing legislation, slanderous libel, as was noted earlier, involves inadequate penalties which French juries will seldom enforce. Villification of honest officials is carried to lengths unheard of in Anglo-Saxon countries. Finally, while there is little or no direct official censorship of the press, the Government can all too easily influence newspaper policies for propaganda purposes.

All of these factors make reform of the press a national problem if democratic government is to function responsibly. During the last few years, the Left has advocated a program which proposes (1) that the economic situation of newspapers be strengthened by establishing a minimum price; (2) that the publication of all sources of press income be required by law; (3) that official subsidies be discontinued; (4) that the distribution of commercial advertising be confined to nation-

alized agencies; and (5) that journalistic slander and blackmail be made crimes effectively punishable in the correctional courts, where no jury can interfere. These proposals naturally provoke such bitter resistance from entrenched interests that, as was indicated in Chapter II, they have only partially been adopted by Parliament. Before the French press can attain a moral independence comparable to its literary preëminence, the organized journalists may have to take matters into their own hands. Through their professional *syndicat* they appear to be making some progress toward the enforcement of higher standards of reportorial honesty and the elimination of the more blatantly corrupt practices. Nevertheless, world-wide tendencies in the field of commercial journalism—the increasing cost of news-gathering, the consolidation of press ownership and control, the emergence of “chain” newspapers, syndicated news services, etc.—cause one to doubt whether effective independence of the press is possible without fundamental changes in the economic order. In this connection it is significant that a recent attempt in Paris to finance on a coöperative basis a metropolitan daily (*Le Quotidien*) should have ended in failure. At the same time, while the news coverage of the French press is admittedly poor, it has not yet yielded to the forces of centralized control which are so marked in English and American journalism. France affords no such example of powerful newspaper “barons” as Hearst or Rothermere. There is still a sufficient variety of daily and weekly newspapers, not to mention a profusion of periodical reviews and pamphlets, to enable the political and intellectual particularism of the community to secure free expression through the printed word.

## 2. *Collective Cabinet Responsibility to Parliament.*

The forces that assure governmental responsibility may be said to operate in a series of concentric circles. Public opinion, as it were, occupies the largest and outermost circle. In more or less articulated fashion, it imposes its sanction upon those who possess the power to govern, legislators and administrators alike. According to democratic theory, the play of this sanction should be continuous; in actual fact, its effectiveness varies with the nature of the issue at hand and the political psychology of the moment. Notwithstanding, or perhaps be-

cause of, the variety of channels through which it flows, public opinion is at best an only partially organized sanction.

Moving more closely to the agencies of public authority, we enter the second control circle. This is the arena of parliamentary action. While the tools of control at Parliament's disposal are proportionately as various in nature and application as the currents of community opinion operating outside, the former differ from the latter in being much more direct and formalized. To reiterate what the preceding chapters have already demonstrated: parliamentary control rests essentially upon the constitutional principle that the ministers "shall be collectively and individually responsible to the Chambers." Having broadly surveyed the processes of policy-formation and administration, we are now ready to examine in detail how executive responsibility is assured in practice.

Generally speaking, the power to legislate, to authorize taxes and expenditures, and to create, alter, and abolish administrative agencies, constitutes a control sanction that may be invoked at any time. The exercise of this power, as we have already seen, may decisively affect not only the orientation of administrative policy, but the very existence of the cabinet itself. Yet the overthrow of few cabinets is directly caused by adverse votes on legislative or budgetary measures. Cabinets more often resign because they lose the support of certain of their members who, on instructions from the party caucus, withdraw from the Government; or because the Prime Minister learns in advance of the probable opposition of one wing of his parliamentary following. Now and then a cabinet will deliberately surrender office in order to reform its own composition and thus eliminate dissident elements. At the same time, the French Parliament has developed certain special procedures by which it may dramatically indicate its trust or distrust of a ministry. These procedures are of two closely related types: (1) the formal vote of confidence or censure, and (2) the interpellation.

*Formal Votes of Confidence or Censure.* Requests for votes of confidence ordinarily emanate from the Government. Within a few days after taking office, the cabinet invariably submits to both houses of Parliament a "declaration of policy." In the Chamber this is always read by the Prime Minister and in the Senate by one of his more important col-

leagues—usually the Vice-Premier. The purpose of the ministerial declaration is to indicate to Parliament and the country the lines along which the Government proposes to proceed. For strategic reasons the declaration may be couched in the vaguest of terms. This is likely to be the case when the make-up of the cabinet represents a provisional or stop-gap arrangement, resulting from a peculiarly muddled political situation. Or the declaration may take a more specific form. If the Government has gone into office with a definite mandate from the electorate, its first move, naturally, is to submit a concrete legislative reform when it meets the legislators. Thus Premier Blum's ministerial declaration of June 1936 clearly indicated not only the specific bills which he proposed to lay before Parliament, but their priority with respect to one another.<sup>5</sup> Compare this clear-cut declaration with the carefully guarded language used by Premier Chautemps when he presented his "reformed" Cabinet to Parliament in January 1938, and the difference becomes clear.

The reading of the initial ministerial declaration always precipitates a full-dress debate on government policy. This may last for only a few hours or it may consume several days. Only in rare instances does an incoming cabinet fail to secure a vote of confidence at this stage. However acrimonious may have been the parliamentary battle which overthrew the preceding Government, rival party groups are usually willing to give the new ministers a chance to try their hand, albeit the atmosphere of good will soon vanishes. From the size of its majority, the number of abstentions, and the general tenor of the discussion, the incoming Government may be able to sense what to expect later.

So volatile is the parliamentary pulse that most cabinets deliberately seek fresh votes of confidence at every more or less critical juncture during their tenure of office. These votes may turn on some comparatively minor issue, or they may be precipitated by a major crisis in foreign or domestic policy. For example, the storm of protest stirred up by the famous Hoare-Laval "deal" on Ethiopia made it necessary for Premier Laval, in December 1935, to seek a formal *ex post facto* approval of what he had done. After days of debate, during which the Premier was scathingly attacked by the Left

<sup>5</sup> For the text of this declaration, cf. the *Source Book*, II-47.

and the Moderate Right, he received such a luke-warm vote of confidence that everybody, himself included, knew that the days of his Government were numbered.<sup>6</sup> In many instances, however, the Government will hasten its own fall by demanding a vote of confidence on some relatively insignificant item. Years before he became Premier, Léon Blum cogently argued that the cabinet should reserve these direct challenges to major questions of policy. "Better still," he asked, "why should the cabinet resign at all, unless, as in England, a vote of censure has first been initiated and carried by the opposition?"<sup>7</sup> Asking a vote of confidence when it is not really necessary is like waving a red flag at a bull in the arena before the toreador is prepared to dispatch the animal! It is noteworthy that as head of his Popular Front Government Blum did not ask for a vote of confidence until after he had been six months in office, and then only because his policy of non-intervention in the Spanish Civil War threatened to break the solidarity of his parliamentary majority.<sup>8</sup>

*Interpellations.* It is precisely because the Government's majority is composed of more or less heterogeneous groups and lacks the element of stability, that the position of the cabinet may so quickly and easily become precarious. Without the weapon of counter-attack provided by the threat of dissolution, most governments are virtually "the prisoner of Parliament" so long as it is in session, which ordinarily means nine months out of twelve. Even if requests for formal votes of confidence were not initiated by the cabinet, it would still constantly face, under the peculiar procedure evolved by the French chambers, the peril of being "interpellated." Interpellation is the right of every deputy and senator to ask the cabinet to explain a specific act or decision on policy. Such requests must be submitted in writing to the presiding officer

<sup>6</sup> For the text of Laval's report to the Chamber, cf. the *Source Book*, II-136.

<sup>7</sup> R. L. Stokes, *op. cit.*, p. 172.

<sup>8</sup> In December 1932, when Premier Herriot, a heavy-set man, asked the Chamber to approve payment of the war debt to America, "some of the journalists in Paris asked him that night, 'M. le Président, surely you are not going to defend the war-debt payment and go down to sure defeat.' 'Oh, I don't know that we ought to worry about me,' said Herriot. 'Look at my broad bottom—I was built to fall in and out of office.'" J. T. Whitaker, *And Fear Came* (New York, 1936), p. 134.

of the house. Since they may be made on any pretext, certain deputies acquire the reputation of being "professional interpellators." When the Government's position is under fire, a perfect deluge of interpellations may be expected not only from the members of the opposition, but from groups threatening to withdraw their support. At the opening of the autumn session of Parliament in 1935, for example, Premier Laval was greeted with as many as seventy interpellations upon his first appearance in the Chamber.

Although there were formerly no restrictions whatever on interpellations, since 1926 the rules have required that they be presented at the end of a sitting (unless the Chamber votes otherwise without debate), so as not to interrupt the regular order of business. At the time an interpellation is submitted, no debate on the substance of the question is allowed. The interpellator has five minutes in which to demonstrate its urgency. Then a representative of the cabinet, always the Prime Minister if the issue is important, indicates when the Government desires the debate to take place. If its majority remains solid, it may be able to bury the interpellation by having it postponed for a month, though this seldom happens. However, when numerous interpellations are simultaneously submitted on various matters, the Government is usually permitted to select the questions to be discussed on the date set.

The debate is opened by the interpellators, each of whom may speak for not more than one hour. Other deputies are restricted to fifteen minutes, but there is no time limit for the ministers. It is not uncommon for closure to be invoked as soon as the interpellators and ministers have spoken. The conclusion of the debate is affected by the passage of a resolution, proposed by some member, that the Chamber "pass to the order of the day," that is, return to the next regular item of business on its agenda. This resolution may be "*puret simple*" (not "qualified"), in which case no expression of praise or blame is indicated. Usually, however, one or more "motivated" resolutions will be introduced expressing in varying degree the confidence, or lack of it, which the Chamber has in the Government's position. In this event, before any votes are taken, the Government designates which resolution it is willing to accept. It may put the "question of confidence"



on the sequence in which the various resolutions shall be put to a vote, in which case the subsequent vote on the resolutions itself becomes a pure formality. Unless the cabinet succeeds in securing the passage of a resolution indicating at least mild approval, while it may not immediately resign, it knows that the end is not far off. Defeat of the resolution it has previously accepted is equivalent to a direct vote of censure, which, of course, obligates its surrender of office at once. A typical form of *ordre du jour de confiance* will read as follows: "The Chamber, confident that the Government will follow a genuinely republican policy, passes to the order of the day"; or if the desire is to indicate censure (*méfiance*): "The Chamber, lacking confidence in the Government's ability to defend the country against its enemies, passes to the order of the day."

The interpellation procedure of the Chamber is substantially duplicated in the rules of the Senate. Both houses take particular delight in invoking this unique means of forcing the Executive to expose every angle of its past, present, or future policy. When, for example, the Senate in July 1936 debated an interpellation on the policy of Blum's Minister of the Interior relative to the "illegal" occupation of factories by sit-down strikers, a favorable vote was secured only after the Minister had promised to take energetic measures to protect private property from such action in the future. This vote served notice on the Government to tighten up its policy or run the risk of a direct vote of censure. Years ago Lord Bryce observed that interpellations are the great "field-days" of French parliamentary politics. Their frequency demonstrates the proneness of the people's representatives to argue questions involving personalities and those "live issues which affect the fortunes of a government," rather than the drab substance of legislation. While use of the interpellation undoubtedly serves to keep the Government constantly on its mettle, the surcharged atmosphere of the debate lends itself to disrupting the collective life of many a cabinet on matters that are in no sense vital. It is this aspect of the interpellation that aggravates cabinet instability.

*War-Power and Treaty-Making.* In connection with national defense and diplomacy, the French Constitution has conferred upon Parliament certain special powers of control.

The first of these is the requirement that, before the Government may formally declare war, authorization of the two houses of Parliament must be secured.<sup>9</sup> For all practical purposes, this requirement amounts to little more than a formality. What with its power to direct the military establishment and conduct diplomatic negotiations, the French cabinet, like the American President, can easily produce situations in which war, declared or otherwise, becomes a *fait accompli*. Despite the constitutional provision reserving to Parliament the right to declare war, political custom admits of circumstances where even this is not necessary—as, for example, when French territory is actually invaded or military operations are undertaken against a foreign territory not constituting a sovereign State.

Although the control of military operations during wartime necessarily rests with the Executive, the cabinet exercising general administrative supervision and the military staffs retaining technical direction, any suspension of civil rights requires parliamentary consent. This principle is sanctioned by what has acquired the status of an “organic” law passed only three years after the Constitution of 1875 came into effect.<sup>10</sup> According to its provisions, which have never been disregarded, a “state of siege” may not be declared by the Government without statutory authorization, if Parliament is in session. If it is not, the Government must convene the Chambers within two days. From then on Parliament remains master of the situation. During a state of siege the jurisdiction of the civil courts over specified crimes and misdemeanors may be transferred to military tribunals, and freedom of domicile, press, and public meeting, as well as private property rights, may be curtailed by military order. Parliament alone may authorize the termination of a state of siege. Only in situations of grave emergency, such as prolonged war or civil strife, has the French legislature ever consented to such an extreme degree of interference with civil rights.

The power to negotiate the termination of hostilities by means of an armistice lies exclusively in the hands of the Executive. The ratification of peace treaties, however, requires formal parliamentary authorization. This rule applies also to

<sup>9</sup> Art. 8 of Law of 16 July 1875.

<sup>10</sup> Law of 3 April 1878.

treaties of commerce, treaties ceding, exchanging or annexing territory, and treaties involving the finances of the State or the person and property of French citizens in foreign countries. It will be noted that treaties of alliance are not included in the category of international engagements calling for specific parliamentary approval. Thus the various agreements consummating the Franco-Russian Alliance prior to the World War were ratified by the Executive alone. The Government may also enter into secret understandings with foreign Powers without the knowledge of Parliament. So it was that the full implications of the French "Entente" with England remained unknown to the French public until after the outbreak of the Great War of 1914-18.

Since the establishment of the League of Nations, with its Wilsonian emphasis upon "open covenants openly arrived at," the Executive has tended to take Parliament more fully into its confidence regarding the results of diplomatic negotiations. With the single exception of a secret military alliance concluded with Belgium in 1920, the terms of which were subsequently revealed and abrogated, all French treaties, of whatever character, have been faithfully registered with the League Secretariat at Geneva. Moreover, there has been an increasing tendency for the Government to submit every kind of formal international agreement to a parliamentary vote prior to ratification. This was the course pursued by Premier Poincaré in 1926 with respect to the Mellon-Bérenger war debt accord with the United States and the Caillaux-Churchill accord with Great Britain. Again, in 1936, the Sarraut Government asked Parliament to sanction the ratification of the Franco-Soviet Mutual Assistance Pact.<sup>11</sup> Apart from any formal agreements which the Quai d'Orsay may negotiate, Parliament is always in a position to check the Government's foreign policy by using any and all of the instruments of control and criticism at its disposal. It is fair to say that French diplomacy is nowadays as democratically determined as the diplomacy of any popularly governed country.

*The Rôle of the Senate.* Before we leave the subject of *collective* ministerial responsibility, it is necessary to emphasize the extent to which the behavior of the French Senate

<sup>11</sup> Cf. the *Source Book*, II-150, for the text of the act authorizing ratification.

has complicated the relations of the Executive and Parliament. By vaguely stating that "the Ministers shall be collectively responsible to the Chambers," the constitution-makers of 1875 showed how little they understood the real position of the House of Lords in the British parliamentary system. Apparently they did not realize that by the nineteenth century the Lords had lost the power to overthrow the cabinet, if indeed they had ever possessed such a prerogative. The British ministry has two weapons that it may employ when the hereditary Chamber becomes too obstreperous: (1) the conflict may be appealed to the country through dissolution of the House of Commons; and (2) if the Lords still refuse to yield, the King may be asked to create enough friendly peers to give the Government a majority in the upper House. Since Queen Anne's time the mere threat of "swamping" has been sufficient to bring the Lords ultimately into line, even to swallowing the Parliament Act of 1911 by which the financial and legislative prerogatives of the Lords were reduced to the exercise of delay.

In contrast, under the constitutional law of the Third French Republic, not only does the Executive, as we have already seen, lack any effective means of dissolving the Chamber of Deputies, but the members of the Senate are elected and their number is definitely fixed. In all probability, it was not originally contemplated that the Senate should arrogate to itself the right to vote a Government out of office, but rather to exercise such lesser powers of control as are provided by inquiry, scrutiny of legislation, budgetary amendments, and questions addressed to ministers. But vagueness of Constitutional language permitted a radically different development to take place. The issue did not reach a climax until twenty years after the adoption of the Constitution. While a few governments had previously been defeated in the Senate on important legislative measures, there was no instance of a cabinet leaving office directly because of the Senate's action. In 1896, however, the Bourgeois cabinet resigned after failing to secure the Senate's consent to an appropriation for military operations in Madagascar, even though the Chamber reaffirmed its confidence in the Government.

This case formed a precedent. Seventeen years later, Premier Briand surrendered office because the "elder states-

men" refused to pass his proportional representation bill. Again, in 1925, the Herriot cabinet resigned when the Senate withheld its approval of his action in exceeding the legal limit of bank-note circulation. Within the following thirteen years, three different prime ministers yielded the reigns of government because of senatorial opposition: once in 1930, when the Left cast an adverse vote following an interpellation directed against Tardieu's "anti-republican and pro-clerical policies"; in 1932, when Premier Laval, even though himself a Senator, lost his appeal for the postponement of an interpellation on the general policy of his Government, so that he might attend the disarmament conference in Geneva; and most recently in 1937 and 1938, when Léon Blum twice resigned after the veteran leader Caillaux had induced the Senate to reject the grant of emergency financial power sought by the Socialist Premier (although in each instance it was subsequently extended to Blum's successor).

The increasing proneness of the upper house to assert its will over governments possessing the confidence of the popular chamber raises an issue of fundamental importance to the proper functioning of French parliamentary government. Professor Lindsay Rogers has admirably summed up the matter as follows: "The instances in which Ministries actually leave office because of the Senate are an inadequate index of the influence of the upper chamber. The Senate may make them trim their sails so that the winds in the Chamber lose their effectiveness and the Deputies desire another ship. Or the Senate may be an 'aid to a Ministry pitted against the Deputies,'—in short, 'a stabilizer of ministerial instability.' Equally, as events during the last fifteen years have shown, the Senate may be an unstabilizer of ministerial stability."<sup>12</sup>

When the cabinet's majority in the Chamber comes fresh from the country with an unmistakable popular mandate, the Senate hardly dares put rocks in the Government's path. Thus the Palais du Luxembourg accepted, albeit rather reluctantly, the Popular Front's social reforms of 1936. But as soon as new issues emerge upon which the electorate has not directly passed judgment, or the Government's majority ap-

<sup>12</sup> "M. Blum and the French Senate," *Pol. Sci. Quarterly*, Sept. 1937. This excellent article reviews in detail the circumstances of Blum's first defeat by the Senate.

pears to be weakening, the Senate does not hesitate to contest the will of the Chamber. For the greater part of its four year term, the Government, therefore, must face not merely one, but two "legislative masters."

Why, it will naturally be asked, has not this paradoxical situation led to a serious move to reduce the Senate's powers? For a generation the anomalous position of the upper Chamber has been a favorite subject of controversy among French constitutional lawyers. Some of them have contended that the assumption by the Senate of the authority to hold the Ministry politically responsible is inconsistent with those provisions of the Constitution that give the Chamber of Deputies priority in handling money bills and make the Senate a high court of justice to try the President of the Republic and Ministers on impeachment charges. Others have argued for complete equality of the two houses in respect to cabinet responsibility. Still others take a middle view, namely, that "the constitutional rôle of the Senate is to assure tradition and continuity. If it should aggravate ministerial instability it will certainly sign its own death warrant."<sup>13</sup> In the political world, the advanced Left has long favored the complete abolition of the Senate. Yet in 1937, M. Blum, although he had repeatedly preached this doctrine in *Le Populaire*, refrained from raising the constitutional issue. Apart from the Premier's patriotic desire not to weaken the internal unity of France in a delicate international situation, it is doubtful whether he could have counted on support from the right wing of the Popular Front for any substantial limitation of the Senate's powers. The fact is that after sixty years of political evolution, reform of the Senate is inextricably bound up with the much more perplexing question of general parliamentary reform. Until this is settled, the status of the Senate is likely to remain untouched. Sooner or later, however, the issue will have to be met either through voluntary "retreat" by the Senate itself or by constitutional amendment.

### 3. *Parliament as the Watchdog of Administration.*

Moving inward along the radius from voter to official, we now arrive at a concentric control circle which is not easily distinguishable from the circle described in the preceding sec-

<sup>13</sup> Barthélemy and Duez, *op. cit.*, p. 711.

tion. The tools by which *collective* ministerial responsibility is enforced serve also as means of holding *individual* ministers politically accountable. Now and then a single minister will be sacrificed in order to save the rest of the Cabinet.

*The Senate as a High Court of Justice.* The same constitutional clause which proclaims *collective* responsibility provides that ministers shall be responsible "individually for their personal acts." The nature of this individual responsibility is two-fold: *penal* and *civil*. If a minister commits a penal offense, he may be held liable before the ordinary courts, just like a private citizen, even though the act was performed in the exercise of official duty. Nevertheless, whenever the Chamber of Deputies decides that the offense is so grave as to have dangerous political implications, it may impeach the accused minister. In this event the case must be tried before the Senate sitting as a High Court of Justice.<sup>14</sup> The Government thereupon designates certain members of the Court of Cassation to prosecute the case. Unless the Senate orders otherwise, the regular rules of criminal procedure govern the trial. After hearing the arguments in public, the Senate goes into secret session and arrives at a decision by majority vote. Any penalty short of death may be imposed. The fact, however, that since the advent of the Third Republic there have been only two cases of impeachment indicates how slight is its practical significance.<sup>15</sup> The operation of the principle of political responsibility ordinarily suffices as a sanction of ministerial behavior.

The Senate's jurisdiction as a court extends to two other types of cases. It alone may try the President of the Republic for high treason when he is so indicted by the Chamber of Deputies. This is the only sense in which the President is responsible for his official acts. Impeachment of the Chief of State, however, has never been proposed. Secondly, the Government may by cabinet decree formally accuse any person—minister or private citizen—of attacks against the safety of the State, as defined by the penal code, and ask the Senate to try

<sup>14</sup> Art. 9, Law of 24 Feb. 1875, and art. 12, Law of 16 July 1875.

<sup>15</sup> In 1918 Minister of the Interior Malvy, convicted for having "compromised the national defense," was banished for five years, but subsequently (1924) amnestied. In 1931 M. Raoul Péret, ex-minister of Finance, together with four of his former colleagues as accomplices, were tried before the Senate on charges growing out of the failure of the Oustric Bank.

the case. This, again, is a constitutional power to which the Government has resorted only when the political repercussions of such acts jeopardize internal order or national defense. It was invoked in 1889 against General Boulanger for his abortive *coup d'état*, and again in 1920 against former Premier Joseph Caillaux for having "impeded prosecution of the war with Germany." Although the latter was convicted and deprived of his civil rights, an amnesty law passed in 1924 wiped out the sentence. A year later the swing of the political pendulum brought him even fuller satisfaction. Not only was he reelected to the Senate, in which body he now serves as chairman of the powerful Finance Committee, but he was called again to head the Finance Ministry. So, despite the constitutional provision that no decision of the Senate as High Court may be formally appealed or revised, political developments can subsequently nullify the sentence.

*Fiscal Accountability.* In theory, at least, the ministers are liable for damages caused to the State or to private individuals by the unlawful disbursement of public funds. In practice, however, the enforcement of this *civil* responsibility is in state of confusion. Impeachment proceedings may not be brought against a minister merely because he is alleged to have authorized expenditures contrary to law, while it is debatable whether the ordinary courts have jurisdiction over such cases. At any rate, no minister has ever been sued for money damages in the judicial tribunals. The only other available sanction arises out of Parliament's scrutiny of the report made by the Court of Accounts on its post-audit of the accounts of administrative departments. An auxiliary arm of the legislative branch, this fiscal Court is composed of judges and a technical staff appointed for life. Although its independence as an auditing agency is incontestable, the procedures of fiscal audit operate so slowly in France that the Court's verification of accounts seldom reaches Parliament until years after the close of the fiscal period to which they relate. By then the legislators have so little interest in the matter that they hasten to close the transaction by perfunctorily voting what is called the *loi des comptes*.<sup>16</sup> Various suggestions have been made for expediting the work of the

<sup>16</sup> The *lois des comptes* regularizing budgetary operations for the fiscal years 1918 and 1919 were not voted by the national legislature until 1937. *Journal officiel*, 18 Feb. 1937.



Court of Accounts, notably by relieving it of the examination of the accounts of local authorities, but so far none of these proposals has been adopted. Consequently, Parliament's *ex post facto* control over the execution of the budget remains poorly organized and largely illusory.

With a view to remedying this situation, "recent legislation has provided that the Ministers furnish the finance committees of the two houses with current information on their fiscal operations."<sup>17</sup> However, these committees are so absorbed in the business of formulating the incoming budget that this requirement has had little practical effect.

*Parliamentary Questions.* As day-to-day watchdog of the administrative bureaucracy, Parliament does not content itself with illusory methods of control. For this purpose, it employs at least three distinct procedures. The first of these is the parliamentary *question*. This may be put to ministers by any member, either orally or in writing. The *oral* question differs from the interpellation in three respects: (1) it usually bears upon some administrative detail of minor importance, (2) it is not followed by a general debate on policy, and (3) the minister is not required to answer unless he wants to. Under the rules oral questions may be asked only at the end of the Tuesday and Thursday sittings, and only two at any one time. The questioner may speak for not to exceed fifteen minutes, then comes the minister's reply (unless he declares the question to be inopportune, which rarely happens), and finally the questioner may take five minutes for any comment he cares to make on the minister's answer. At no stage is there a vote.

Although use of the oral question, coming as it does when the Chamber is tired, has tended to decline in recent years, *written* questions are resorted to in great numbers. Prepared in summary form, the latter may be deposited with the secretariat of the Chamber (or Senate), or merely dispatched by the post. Before it is printed in the *Journal officiel*, each question is carefully scrutinized by the legislative secretariat and if the language is impolitic it may be edited. Unless the minister asks for a longer time, or declares that the public interest requires him to refrain from answering, his reply must be entered in the *Journal* within a week. Although the

<sup>17</sup> Buck, *op. cit.*, p. 279.

number of written questions exceeds 5,000 a year, their value as a device for preventing bureaucratic abuses or improving administrative efficiency is at best dubious. For the most part the questioners are motivated by a desire to embarrass the minister, or to secure detailed information for some constituent or government employee on such matters as tax regulations, pension claims, veterans' preference, promotion rights in the civil service, or the conditions under which supplies may be sold to the military authorities.<sup>18</sup> Too timid to speak on the floor, many deputies resort to the printed question in order to attract attention at home, since the local newspaper will always "spot" their names in the *Journal officiel*. Another unanticipated result of the written question procedure has been to increase the paper work of government bureaus out of all proportion to its substantive importance.

Nevertheless, the parliamentary question does possess certain positive virtues. Listen to the testimony of Professor André Siegfried: "I was attached for some time to one of our chief administrative departments. Usually we did our share of work conscientiously in a quiet atmosphere of daily routine, but there were days when one hardly recognized the place—the director had nerves, the letter-files seemed to pile up hectically on the tables and the typists all had their teeth on edge. There was a question to be asked in the House by a Deputy . . . and everyone jumped except the porters! This intervention serves thus as a spur to keep the horse panting, even when it is not in use. It also acts as a master key, able to open and track down everything."<sup>19</sup>

"*Deputantism*." There is a second form of administrative intervention by individual members of Parliament which is peculiarly congenial to French temperament. Picturesquely characterized as "deputantism," this practice consists in part of seeking favors for the home district, in part of trying to influence the minister as regards the promotion and assignment of the deputy's friends and relatives who happen to be *fonctionnaires*, impliedly in return for supporting the minister's projects in the Chamber. The deputy "becomes the missionary for the provinces, the plenipotentiary of the *arron-*

<sup>18</sup> An example of a written question and the minister's reply is given in the *Source Book*, II-53.

<sup>19</sup> *Op. cit.*, p. 108.

*dissement* at Paris, the voter's mandatory, the mouthpiece of the *sous-prefecture* in central government offices."<sup>20</sup> In short, *Monsieur le Député* regards it as one of his most precious prerogatives to write letters to *Monsieur le Ministre* or *Monsieur le Préfet* about all sorts of petty matters. Even though recruitment for most of the civil service is now conducted on a merit basis, there are still countless little ways in which a friendly word from an influential deputy may aid the advancement of career employees, not to mention the possibility of securing appointments for parliamentary favorites to those posts that constitute the last preserve of patronage. The postal administration, so it is said, has to deal with over 30,000 instances of deputationism in a single year; the Ministry of Pensions, with 500 in a single day. Indeed, the minister's door must always be open to the deputy.

The most reprehensible consequence of this relationship between deputy and government bureau is that it facilitates what in America would be called "pork-barrel" appropriations. The typical minister seldom has the courage to say "no" to a parliamentary colleague when the latter comes asking for a new drinking fountain in the public square of his home town, the paving of some little-used highway, additions to local schools, or the construction of a military barracks where it is not really needed. This may be pork-barrel on a petty scale, but it is nonetheless pork-barrel. Deputationism operates in still another sphere. "Twice a year," remarks a former Premier, "the executive has to distribute 'Legion of Honor' medals. It is an essential feature of the parliamentary mandate to beg or demand these medals and similar decorations for the benefit of electoral proteges. The 'merite agricole' and academical distinctions are also very eagerly sought."<sup>21</sup> There is nothing so flattering to a Frenchman's vanity as to be entitled to wear a little ribbon on his coat lapel!

Deputationism flourishes in an atmosphere of *camaraderie à la française* for which there is no exact equivalent among Anglo-Saxon peoples. It is a game that smacks of sly intrigue and clever maneuver in the refined French manner. Its ramifications illustrate the weak position of the ministers before a

<sup>20</sup> Barthélemy and Duez, *op. cit.*, p. 713.

<sup>21</sup> Tardieu, *France in Danger*, p. 119.

legislature that can turn the government out at a moment's notice. While now and then it undoubtedly acts as a bulwark against officious and arbitrary decisions by a centralized bureaucracy, and as an aid to the poor and unfortunate, it is scarcely conducive to any sustained or rational toning up of administrative standards or the exposure of major abuses. "After a deputy has passed his forenoon making *démarches* in a minister's office, he uses his afternoon to control the latter's acts. During half of the day he has asked favors, during the other half he asks guarantees. If he obtains many guarantees, he does not for that reason ask fewer favors; but when he obtains many favors, he is likely to be less exacting in seeking guarantees—it is but human. . . . Such is the double law upon which parliamentary control reposes."<sup>22</sup>

*Parliamentary Committees.* It is rather through the parliamentary committee system that the important aspects of administrative behavior are brought under review. In the course of considering legislative and budgetary proposals, the great standing committees come into direct contact not only with department heads, but with the permanent officials who manage the administrative bureaus. As we have already noticed, the organization of these committees closely parallels the major functional divisions of administration. To the committee room the experts may, with the minister's consent (seldom refused), be summoned to explain why this or that has or has not been done, why this service has cost so much, how it might be reorganized, and so on. Each committee, moreover, has a technical staff at its disposal for investigational purposes. Experienced committee members, and there are many of them, can put their fingers on the weak spots in the administrative armor. This is particularly true of the committees on finance, foreign affairs, and the defense establishment. So exacting are the demands of such bodies on the time of hard-working ministers that two eminent premiers, Poincaré and Tardieu, used to complain bitterly of having to appear before two different sets of committees, in addition to the two legislative assemblies.

The grand committees can be "instruments of torture" to the executive not merely while Parliament is in session. The

<sup>22</sup> Robert de Jouvenel, *La République des Camarades* (Paris, 1924), p. 45 (author's translation).

budget committee of the Chamber of Deputies usually gets under way weeks before the opening of the autumn session of the legislature. The Government's conduct of the World War, at any rate after the first few weeks had failed to yield the expected victory for French arms, was kept under close parliamentary surveillance through the investigatory activity of certain standing committees. At one stage in 1916 the Chamber actually proposed "to organize a direct delegation which will exercise on the spot, with the coöperation of the Government, an effective control of all services having the mission of providing for the needs of the army."<sup>23</sup> Although, as might be expected, this idea proved impracticable, an Inter-Commission of War, Marine and Foreign Affairs was set up to strengthen parliamentary control. Not only were generals and civilian officials grilled in Paris, but a number of investigations of military operations and the administration of food supplies were conducted in the field. The removal of at least one important general was due to committee insistence upon his incompetence. At times, some of these parliamentary committees were prone to encroach upon the proper sphere of the Executive, but on the whole their work was highly salutary and served as a useful corrective of the dictatorial tendencies which are common to all governments in time of war.

In the domain of diplomacy the Government has in recent years shown a willingness to convey to the foreign affairs committees of the Chamber and the Senate, meeting in secret session, a great deal of semi-confidential information that cannot be publicly divulged on the floor of Parliament. Apparently this type of control has not interfered with the efficient conduct of foreign relations. On the contrary, concludes Gooch, "the attitude of Parliament toward the Government is markedly improved by the consciousness, on the part of the Chambers, that some of their best qualified members share with members of the executive a knowledge of the various elements entering into the foreign relations of the country."<sup>24</sup>

Because of the limited powers possessed by standing committees to subpoena private citizens as witnesses, Parliament

<sup>23</sup> Quoted in Gooch, *The French Parliamentary Committee System*, p. 235.

<sup>24</sup> *Ibid.*, p. 247.

occasionally appoints special committees of inquiry. Under a law passed in 1914, such committees may compel witnesses to testify under oath, false testimony being punishable in the courts. Formerly, committees set up to investigate political corruption, such as the Panama Canal Affair of 1892 and Rochette financial scandal of 1910, had been handicapped because of the refusal of key persons to appear before them. While the reform of 1914 removed this obstacle, most observers of French public affairs doubt the value of trying to inject habits of judicial fairness into a group of parliamentary politicians, so strong are the pulls of partisanship. It is significant that a committee instituted in 1924 to investigate sources of campaign funds should have limited its scrutiny to funds used by the parties then in opposition to the Left Bloc majority. At the same time, credit must be given to the two special Committees of Inquiry into the Stavisky scandal of 1933 and the February riots of 1934 for doing a thorough job. The former committee, thanks to its impartial and vigorous chairman, brought to light a whole series of inter-connected scandals involving members of Parliament, the police, the press, the agencies of justices, and high administrative officers.

Instances of large-scale corruption in the public service have been comparatively rare during the history of the Third Republic. But when things really do go wrong in official circles, popular resentment is vehement and immediate. So sensitive are Parliament and public opinion to administrative dishonesty that the guilty—principals and accomplices alike—have no chance of remaining in office. If the charges are particularly grave, the entire cabinet may be forced to resign. By way of contrast, consider how long it took to detect and drive from office the "Ohio Gang" that perpetrated the blatant scandals of the Harding Administration in the United States, although the latter were guilty of malpractices on a scale many times greater than were the French officials involved in the Stavisky affair.

#### *4. Judicial Control of Administrative Behavior.*

So far we have been considering political sanctions for official behavior. But there is another side to the problem. In the modern State, and France is no exception, administrative officers possess so much discretionary power that in the

course of its exercise they may easily violate, deliberately or unintentionally, the legal rights of private persons or the employees under their control. In order to keep official acts within the bounds of legality, adequate judicial safeguards are necessary. To this end, the historic "rule of law," for which Anglo-Saxon constitutionalism prides itself, holds that officials may be held liable in the ordinary courts whenever they exceed or misuse the powers conferred upon them by law, but that the State itself is not suable without its consent.

*The Rise of Administrative Jurisprudence.* In modern France a rather different concept has developed. One of the first propositions enunciated by the Great Revolution was that "the judicial function is and must always remain distinct from the administrative function." The reason for this may be traced to the unpopularity in which the judicial tribunals of the *Ancien Régime* were held, along with the fear that the judges would be an obstacle to social reform if they could interfere with the administrative process. The new Revolutionary principle meant, however, that the administrator could act both as prosecutor and judge of his own acts. It quickly became apparent that such a situation was not calculated to afford fair protection against arbitrary or unlawful conduct by government officers. Consequently, in 1799, Napoleon contrived an ingenious distinction between what he called *active* and *consultative* administration. By the former he had reference to the functional operations performed by such officials as ministers and prefects (and their subordinates), while the latter pertained to the giving of technical advice on rule-making to "active" administrators by deliberative bodies. In order to put this distinction into practice, Napoleon created certain special agencies which were to provide such advice. Thus originated what was destined to develop into a separate judiciary for the adjudication of administrative controversies—a central Council of State and local Councils of Prefecture.

For the next three-quarters of a century the rôle of the Council of State was confined to giving legal advice on the preparation of legislative projects and administrative ordinances. Since, however, its personnel was appointed and could be dismissed at will by the political Government, the Council of State lacked the independent authority necessary to pass upon the legality of the administrator's application of statu-

tory rules and regulations. Similarly, the Councils of Prefecture were in reality little more than "councils of prefects" whose judicial competence long remained ambiguous. By a slow process of evolution, the Council of State acquired the right to be consulted on specific cases arising out of injuries claimed to have been incurred by private individuals because of the improper exercise of ministerial power. But for several decades the emerging judicial authority of the Council lacked any sanction.

The year 1872 witnessed the adoption of one of the most important laws ever to emerge from a French legislative assembly. This statute conferred upon the Council of State the express power to adjudicate administrative controversies and, more important still, to annul administrative orders held to be "in excess of power" (*ultra vires*). Henceforth, the judgments of the Council were not to be susceptible of appeal to any other authority. This same act reorganized the Council of State with a view to insuring greater independence of tenure for its personnel and a more orderly dispatch of judicial business. While the advisory functions of the Council in respect to the issuance of administrative decrees were left undisturbed, it now became a full-fledged administrative court in addition. This dual rôle it has performed ever since. Subsequent legislation, enacted at various times since 1900, has modified certain details of its composition and procedure, but always in the direction of strengthening its authority.

Concurrently, during the latter half of the nineteenth century, the Councils of Prefecture evolved into regularly constituted administrative tribunals of first instance. While the range of their jurisdiction has remained substantially untouched, the number of these local tribunals was reduced by a Poincaré decree in 1926. In lieu of maintaining a council in each *département*, regardless of its size or importance, this decree consolidated the lower administrative court machinery. This now consists of twenty-two *inter-departmental* councils located in the larger regional centers.

*The Inter-departmental Councils of First Instance.* In order to understand how the administrative court system works, we must first consider these "regional" tribunals at its base. Each of them consists of a president, four councillors and a small clerical staff. There are three classes, or grades, of



councillors. The third, or lowest, grade is recruited entirely by competitive examination. Three-fourths of the higher grades must be chosen by promotion from the lowest class. The remaining fourth may be appointed from the career staffs of administrative bureaus, provided they possess a law degree and have served a specified number of years. A similar arrangement governs the appointment of the presiding judges, two-thirds of their number being promoted from the ranks of first-class councillors and the remainder being drawn from bureau chiefs in the Ministry of the Interior or from sub-prefects with a law degree.

The jurisdiction of the Inter-departmental Councils is limited to matters expressly delegated by national law. Its subject-matter covers litigation relative to direct taxes, public works, minor offenses committed on public highways and streams, the sale of government property, and local elections. Since 1934, claims for damages against local public bodies for breach of contract have also been within the competence of these tribunals. The procedure by which cases reach their dockets is simple and inexpensive. All the plaintiff need do is to file in the office of the court a petition, which may be drawn up and signed by himself, on a piece of stamped paper costing but a few francs. One of the councillors is designated by the president of the court to act as *rapporteur* for the case. On his motion, the court may force the production of documents and ask for written observations from the contending parties. In certain instances the opinion of experts is secured on technical points. One of the councillors always acts as "commissioner" for the government agency involved in the case. As soon as the written evidence is digested, an informal hearing is held. At this stage the parties, or their representatives, have an opportunity to offer oral arguments if they wish. The *rapporteur* reads his report on the case, the commissioner presents his conclusions from the Government's standpoint, and the court renders its decision by majority vote. Dissenting opinions are not published. So far as the complainant is concerned, the entire proceeding costs practically nothing—except for the fees of experts when they are consulted. The contending parties do not even have to appear in person. Nor do the representatives that may act in their behalf need to be lawyers.

On the average, the Inter-departmental Councils adjudicate about 30,000 cases each year. Around 90 per cent have to do with local tax assessments. No action or order of any central government authority may be touched by these Councils. Furthermore, every judgment they pronounce is subject to appeal to the Council of State in Paris, although such appeals are the exception rather than the rule.

*The Council of State.* It is to the Council of State that we now turn. In part, the composition of this remarkable body has already been described.<sup>25</sup> The majority of its staff consists of highly trained university graduates initially recruited on a competitive basis. The entrance examination for the post of *auditeur* is generally conceded to be the most difficult of all tests for admission to the French public service. For each of the three or four vacancies that annually occur, there are ordinarily five or six candidates. The French public service offers to a young man no higher prize than an appointment as second-class *auditeur au Conseil d'Etat*. Once a member of the Council's staff, he is virtually assured of a life-time career in government service. Three-fourths of the 39 positions of *maître des requêtes* are filled by promotion from the 20 first-class *auditeurs*, while the latter are in turn drawn entirely from the second-class *auditeurs*. After eight years of service, those second-class *auditeurs* who fail to secure promotion are appointed to such administrative positions as sub-prefect, secretary of prefecture, or assistant bureau chief. The principle of selection by promotion from below also applies to two-thirds of the 30 posts of *counseiller*.

The Council's upper staff contains an ingenious blending of rigorous theoretical training in law, economics, public finance, and constitutional government, with seasoned administrative experience. For a fourth of the councillors, and a third of the masters of requests, may be appointed, if the Government desires, from the ranks of prefects and division heads in active administration. Conversely, the career members of the Council's staff are frequently placed on detached service with administrative departments for periods of two years at a time, after which they return to their regular posts. This arrangement produces an ensemble of administrative judges who by training and experience are admirably qualified to understand

<sup>25</sup> Cf. p. 104, *supra*.

the social and economic environment in which the public administrator works. This combination of theory and practice provides a flexibility of outlook which has made possible an extraordinarily progressive jurisprudence, in contrast to the strict adherence to written codes that dominates the ordinary French courts. Since the administrative jurist is sympathetic to the administrator's problem, little of that mutual suspicion, so harmful to the relations of administrative officials and regular judiciary in the United States, marks the relations of the Council of State and executive departments in France. Paradoxically enough, because the members of the Council of State are not "suspect" in the bureaux, the former are all the more disposed to protect the rights of individuals against illegal or improper conduct on the part of the *fonctionnaire*. This attitude of independence is still more remarkable considering the fact that the regular members of the Council of State hold office at the pleasure of the Government. What the law has failed to provide, however, tradition has supplied. Since 1879 there has been no case of arbitrary dismissal or any attempt to exert political pressure upon the judges. Today the Council of State enjoys such commanding prestige that no cabinet would dare interfere with its judicial independence. At the age of seventy-five, the councillors, as well as the lower staff members, are retired on pension, though many of them resign earlier to accept important positions in great business houses.

In view of its dual rôle as advisory council and judicial tribunal, the Council of State operates by sections. For the task of advising the Ministry on legislative projects and executive ordinances, the Government has the right to appoint not to exceed 31 high officials (usually directors of service or prefects) as Councillors of State "in extraordinary service." These men may sit with the advisory sections dealing with the business of their respective ministries, but they have no vote. Nor may they take any part in the judicial work of the Council. The Minister of Justice is president of the Council of State *ex officio*. In actual fact he never presides except when the court meets in ceremonial session. The active headship of the Council is held by a councillor designated by ministerial decree as its vice-president. In addition, each section of the Council has a president, who is simi-

larly chosen. For advisory purposes there are now three "functional" sections.<sup>26</sup> In order to broaden their familiarity with administrative problems, members of the Council are rotated at one to three year intervals from section to section. Whenever requested by a minister, draft administrative decrees must be considered by the full court sitting in "general assembly." When this procedure is used, the minister concerned may be present, but cast no vote.

As a judicial agency, the Council formerly maintained a unified organization. But litigation so increased in volume that a division of labor became necessary. At present, the preliminary consideration of most cases is handled by various subdivisions of what is known as the "litigation section." These "sub-sections" have powers of decision in minor cases, chiefly those appealed from the lower administrative courts relating to pension claims, direct taxes, and local elections. For the more important complaints, including, in particular, appeals contesting the legality of administrative rules and regulations, the preliminary examination of evidence and the preparation of briefs are assigned to a sub-section, while final judgment is rendered either by the litigation section as a whole or, upon request of the vice-president, section president, or government commissioner, by the "plenary assembly" of the Council. When a case is decided by a sub-section, at least three councillors must participate; if it comes before the full section or plenary assembly, a somewhat larger number. Councillors alone have the right to render judgment, the chief function of the *maîtres de requêtes* being to examine petitions in a preliminary way, while the *auditeurs* collect and brief all relevant data and act as reporters for sub-sections.

The procedure governing the handling of appeals to the Council of State is simple, convenient, and relatively cheap. The plaintiff need only address to the secretariat of the court a tax-registered petition explaining the circumstances and attaching such affidavits as he may wish in support of his claim. The petition is then referred to the appropriate section of the court. Within two months the counsel for the plaintiff, or the plaintiff himself, must communicate a statement of the charges

<sup>26</sup> There were formerly four, but in 1934, as an economy measure, the section on legislation was abolished and its functions were distributed among the three remaining sections.

to the defendant official. The latter has fifteen days in which to make written reply. A *maître des requêtes* is designated to serve as "commissioner" for the government. After this stage is reached, the court proceeds with the investigation. If necessary, it may instruct a member of its staff to visit the place where the act in question was alleged to have been committed, to consult technical experts, or to take depositions. When the investigation is completed, the reporter for the case prepares a résumé of the facts, together with a proposed judgment (*arrêt*). This report is transmitted to the government commissioner, who formulates in writing his conclusions on the case.

When the affair comes before the court for decision, the judges hear the documents read and listen to the oral arguments of the counsel for the petitioner, if there be any. At this stage no witnesses are called, nor may counsel introduce any new evidence. The judges, however, have the right to question the reporter, the government commissioner, and counsel regarding the facts contained in the written documents. Only if the petitioner is represented by counsel is the hearing open to the public. The court's decision is always deliberated in secret. In cases attacking the legality of administrative orders, the entire proceeding costs the petitioner nothing if his claim is upheld; otherwise, he must pay a nominal sum amounting to about 100 francs (three or four dollars), but that is all. In direct claims for money damages, while there are special court and registration fees, the entire cost to both parties seldom exceeds 1000 francs (thirty or forty dollars).

The jurisdiction of the Council of State covers virtually the entire field of public administrative law. In the French sense, this embraces the organization of public administration, the powers and privileges of administrative officers, the manner in which these powers and privileges may be exercised, disputes arising therefrom, and reparation for injuries resulting from official wrongdoing or negligence. By a series of notable judgments broadening out from precedent to precedent during the last seventy-five years, the Council of State has developed definitive legal standards for the exercise of administrative discretion. In its earlier stages, this procedure of judicial review was applicable only to the administrative acts of mayors

and prefects, but after 1872 it was extended to the regulations and orders of central government departments and since 1907 to "ordinances of public administration" issued in the name of the entire Council of Ministers, after consultation with the Council of State, even though such ordinances are legislative in substance. Thus the supreme administrative tribunal possesses a legal sanction which can be invoked against ministers who refuse to follow its legal advice in the first place. Only such discretionary "acts of State" as the calling of elections, the convocation or adjournment of Parliament, and the conduct of war and foreign relations, lie outside the court's pre-view—for obvious political reasons.

What are the standards to which administrative orders must conform in order to receive the court's stamp of legality? Its jurisprudence has set four requirements: (1) there must be no conflict with the text of existing law or the Constitution, as the court interprets its meaning; (2) the official must be legally competent to issue the order or perform the act in question; (3) there must be no deviation from the procedure laid down by existing law or ordinance; and (4) most important all, even though the act may appear to be legal in all other respects, its motivation must have been in "good faith," that is, not for any purpose alien to the real intent of the law. Administrative acts invalidated on any of the first three counts are held to be "in excess of power," while violations of the fourth constitute what the court terms "abuse of power" (*détournement de pouvoir*). An appeal attacking the legality of an administrative act always falls under one or the other of these two heads, or both. When the court upholds such an appeal, its decision completely annuls the act in question.

Under what conditions may appeals be brought? The requirements vary according to the nature of the case. In certain instances, the appellant must show that a legal right to which he is entitled has been violated. In others, any direct personal, pecuniary, or material interest in the contested act appears to be sufficient. In still a third type of appeal, any individual (citizen or alien), group, or association having merely a moral or civic interest in the action may petition the court to pass upon its validity. With only minor exceptions, appeals for "excess of power" must be submitted within two months following the publication or notification of the act

under attack, in order that it may not be too long exposed to the hazard of annulment.

Since the World War the number and variety of *ultra vires* appeals submitted to the Council of State has greatly multiplied. The total often exceeds 4,000 a year, close to half originating with subordinate government employees. The right of appeal to an independent administrative tribunal has become one of the most precious privileges of civil servants. They have made wide use of it with a view to insuring effective application of the personnel code. Any employees' association (*syndicat*) may appeal in behalf of members who are the victims of transfer, dismissal, or retirement orders contrary to departmental regulations. If, for example, an individual employee is illegally discharged, the court will not only annul the discharge order, but upon reinstatement the wronged employee may bring an action for recovery of lost salary in the contingency, now remote, that the authorities fail voluntarily to reimburse him. Despite the fact that the court itself is partially composed of former administrative officers, it has not hesitated to condemn high officialdom in this fashion.

The court's power of review has also become an important bulwark against bureaucratic encroachment in the domain of civil liberty, especially freedom of religion, the press, and public meeting. When, for example, the Blum Government decreed the dissolution of the *Croix de Feu* on the ground that it possessed the character of a "private militia," as defined by the permissive statute of 10 January 1936, Colonel de la Rocque's organization asked the Council of State to review the legality of the decree of dissolution. The high court held that, while the Government had acted in accordance with the intent of the law in so far as the political aspects of the *Croix de Feu* were concerned, the decree could not touch its activities in the field of organized charity. Considering how extensive is the ordinance power of the French Executive, the court's vigorous exercise of judicial review must be regarded as a development of great constitutional importance. Private property has been protected from unlawful seizure and restrictions imposed without "due process of law" by administrative officials. To American readers, however, it is important to emphasize that this is primarily a procedural

protection: the French Council of State may interpret a statute and decide whether orders issued in its name conform to the intent of the legislature; but there can be no challenge of the substantive content of the law. The arbitrary element in administration thus yields to legality, but Parliament remains supreme as the ultimate arbiter of policy. This fact sharply differentiates the prerogatives of the Council of State from those of the Supreme Court of the United States when the latter tribunal interprets "due process of law" under the 5th and 14th Amendments to the American Constitution.

*The Tribunal of Conflicts.* In France the coëxistence of two sets of courts, ordinary and administrative, inevitably gives rise to perplexing conflicts of jurisdiction. In adjudicating certain types of disputes in private law, for example, the civil law courts are frequently obliged to interpret the meaning of administrative regulations, even though their legality may not be challenged by the judges. Again, under a provision of the penal code (article 471), an ordinary court may refuse to impose police fines for violations of administrative ordinances which the court holds to have been illegally issued. The question of jurisdiction appears still more confused when it is a matter of determining official liability for injuries suffered by private individuals. Under the general rule of liability, the injured party has the right to bring an action for *civil* damages against the public officer charged with responsibility for the act, whether it be a penal offense or not. In many instances, however, it is hard to determine in how far the injury was due to negligence, ignorance, or lack of judgment on the part of an individual official, or in how far it was incidental to the general risks inherent in operating an administrative service. Not infrequently "personal" and "official" liability are inextricably mixed. Even where personal liability can be clearly established, judgment for money damages awarded by a civil court offers little satisfaction to the victim if the liable official is insolvent. Because of the time-honored French doctrine which forbids control over the Executive by the regular judiciary, the latter cannot entertain suits against the State or any of its subdivisions. May the injured party, therefore, turn to an administrative tribunal for redress? What sort of remedy, if any, may the latter court



provide? Does the victim have a choice as to where he shall press his claim? If so, the possibility of securing cumulative indemnity arises.

These and other questions have to be settled by some final authority. For this purpose there has been established at the apex of the dual judicial hierarchy a Tribunal of Conflicts. While the establishment of this Tribunal dates from the middle of the nineteenth century, its work did not become important until after the passage of the organic law of 1872 on the Council of State. The Tribunal of Conflicts is made up of the Minister of Justice as president, and three judges of the Court of Cassation and three Councillors of State elected by their respective colleagues. In turn, these seven members elect two additional judges and two deputy judges. The reason for giving the Tribunal of Conflicts this bi-partite composition is to insure its impartiality as between the two parallel judicial systems.

The Tribunal of Conflicts has a double function. First, it determines jurisdiction when the "question of conflict" is raised before a case is decided by the trial court. This may occur in two ways. Negatively, the question arises when neither the ordinary nor the administrative court will take jurisdiction. Positively, it arises when an ordinary court assumes jurisdiction over a case which in the opinion of the administrative authority concerned should be tried before an administrative court, but not vice versa. Second, when contradictory judgments on the same case have been rendered by an ordinary and an administrative court respectively, so as to result in a denial of justice, the aggrieved parties may appeal to the Tribunal of Conflicts to arbitrate the issue by substituting its own decision, which becomes final.

### *5. The Establishment of State Liability.*

By and large, the Tribunal of Conflicts has favored the expansion of *administrative* at the expense of *civil* jurisdiction over cases involving the relations of individuals with public officials. Nevertheless, there has been some tendency in recent years to restrict the competence of the administrative courts by placing under the civil tribunals disputes over ordinary government contracts and certain aspects of the op-

eration of public industrial and commercial enterprises.<sup>27</sup> The crowning achievement of the jurisprudence of the Council of State, however, has been unwaveringly upheld by the Tribunal of Conflicts. This achievement, which definitely distinguishes French from Anglo-American administrative law, may be summarized as follows: (1) in so far as an individual agent of the State, or any of its subdivisions, held liable for a personal fault, criminal or otherwise, cannot satisfy the judgment for damages, whether rendered by a civil or an administrative tribunal, the public Treasury becomes subsidiarily liable for the difference; and (2) where the nature of the injury is such that it cannot be attributed to an individual employee personally, the administrative service concerned must assume full responsibility. This, indeed, is a far cry from the ancient maxim, "The King can do no wrong!" which still largely governs the attitude of English and American law courts in considering claims against the government. In short, for non-suability of the State without its consent, the French Council of State has succeeded in substituting the principle that "the Republic is responsible." In a famous case of twenty years ago, Léon Blum, then a *maître des requêtes* himself, succinctly defined this new concept as follows: "The fault is perhaps detachable from the service—that is a question for the courts of common law—but the service is not detachable from the fault."<sup>28</sup> In other words, there is always presumption of liability on the part of the Administration. "This liability," comments a noted French jurist, "is the sanction of administrative power, for in administrative law, as in constitutional law, and in every other brand, responsibility is the mark and price of power."<sup>29</sup>

Concretely, this means not only that the French State can be sued for breach of contract, not only that the execution of *ministerial* acts may be compelled by the administrative courts,

<sup>27</sup> It should also be noted that Parliament has conferred upon the ordinary courts the right to condemn private property for public use, the amount of compensation being determined by a special arbitral jury. On the other hand, the Council of State was given the power to adjudicate claims of munition-makers for compensation under the expropriation procedure of the nationalization act of 11 Aug. 1936.

<sup>28</sup> Conclusions of the *commissaire du gouvernement* in the Lemonnier Case, 26 July 1918.

<sup>29</sup> L. Trotabas, "Liability in Damages under French Administrative Law," *Journal of Compar. Legis. and Internat. Law*, Feb. 1932.

but also that the State itself is liable for "accidental wrongs" (actions in tort) resulting from its manifold activities, "governmental" as well as "proprietary." The injured party always has an available remedy—usually by recourse to a relatively cheap and easy procedure (*recours de pleine juridiction*) before the Council of State. Thus far its case law has remained singularly devoid of the minute technicalities that so frequently result in endless delay—retrials, costly and futile appeals—in Anglo-American law. A few striking decisions may be cited by way of illustration. In 1905 a private citizen was awarded money damages for bodily injuries caused by a shot from a policeman pursuing an infuriated bull. In the 1918 case previously referred to, a municipality in the South of France was held liable by the Council of State for the wounding of a person during a duck-hunting competition organized by the mayor, notwithstanding that the latter had been held personally liable by a civil court. In another interesting case in 1911 a man jostled so violently by a postal employee as to break his leg got a money judgment against the postal administration, although the accident was clearly caused by the "personal fault" of the employee. The Court concluded that the fact that the victim had to leave the post-office by a door reserved for the staff, because the public exit had been closed prior to the regular closing time, made the postoffice administration accessorially responsible. Two recent decisions of the Council of State, directed against central departments exercising "sovereign" powers of government, demonstrate how completely the cycle has revolved, from irresponsibility of the sovereign before the law, to effective responsibility of the entire public service. In the first case, which occurred in 1920, the Ministry of Justice was condemned to pay damages for injuries resulting from a crime committed by certain escaped convicts, on the ground that prison management had been lax. Eight years later the Air Ministry was held liable for damages caused by the accidental crash of a military airplane.

Broadly speaking, the Council of State has become the saving grace of a bureaucratic administrative system. It protects the personnel of the public service from the more flagrant evils of political favoritism and official arbitrariness. It shields citizen and taxpayer from the illegal exercise and abuse of

public power. It provides certain reparation for injuries to person and property resulting from administrative unlawfulness, carelessness, neglect, and poor judgment—regardless of the source of liability. While the French system of *droit administratif* has been adopted, to a greater or lesser degree, by many Continental States, and its influence has begun here and there to penetrate Anglo-American jurisprudence, no other country in the world enjoys such an effective or so admirably an organized guarantee of administrative morality. Indeed, it would not be far wrong to say that here lies the unique contribution of the Third Republic to the art of constitutional government.

What the Third Republic has so far failed to achieve is an effective reconciliation of legal responsibility with *stability* of political direction. The quicksands of parliamentary politics can too easily play havoc with long-range efforts for administrative and fiscal reform, produce executive vacillation in national emergencies, and jeopardize attempts to rationalize an economic order that creaks and groans. Upon the capacity of the French people to solve this problem of social organization, the future of their democratic liberties may ultimately depend.

## CHAPTER XI

### FRENCH DEMOCRACY FACES A TROUBLED WORLD

It cannot be denied that parliamentary democracy in France is now on the defensive. Nothing is more striking than the widespread popular skepticism which now prevails regarding the efficacy of representative government in its present form. The reasons for this decline of faith are many, but the charge that falls most frequently from the lips of critics is that multi-party parliamentarism is incapable of mastering the economic perils that beset the country. The turbulent period since the World War has been punctuated by ever recurring *crises d'autorité* and an increasing resort to government by decree. The franc has suffered four successive devaluations, amounting to over 90 per cent of the pre-War par—a series of operations that have taken terrific toll of middle class savings and sense of security. No less than six times—in 1924, 1926, 1934, 1935, 1937 and 1938—cabinets have sought and obtained emergency grants of power so that they might govern without parliamentary control “for the duration of the crisis.” On several other occasions such requests have either been threatened or actually made by harrassed prime ministers, only to be rejected by the legislature. Until 1936 the refusal of the powerful Socialist party to assume government responsibility made it almost impossible for any left-bloc ministry to maintain a reliable majority in the Chamber. After the elections of 1932 the consequences of this situation were greatly aggravated by the onslaught of severe economic depression. From then until February 1934, six makeshift coalition governments struggled vainly to deal with the growing economic confusion.

The chronic incapacity of Parliament to produce a governing majority so impressed the right wing of the S. F. I. O. (Blum's party) that in October 1933 it seceded and announced

its readiness to coöperate with "bourgeois" governments. Deserting the orthodox internationalism of Marxism in the interest of national unity, this "neo-socialist" movement feared that France might go the way of Italy or Germany unless economic recovery were soon realized. Certain of the neo-socialist leaders who had been successful municipal administrators, notably M. Marquet, the Mayor of Bordeaux, entered subsequent coalition ministries.

On the famous night of 6 February 1934 the republican régime itself tottered on the precipice of collapse—to be saved, perhaps, only because no magnetic leader appeared who could consolidate the inchoate forces attacking it "from the street." The most menacing of any French political crisis since the World War, this convulsion was compounded in part of a genuine disgust at scandal and corruption in high places, in part of a clever attempt on the part of reactionaries to discredit the entire régime. For a brief time, the Chamber of Deputies attained such unpopularity with Parisians that some of them placarded their motor cars with the sign "*Je ne suis pas député!*" However, after the deputies went home, the tide turned back in their favor. The provinces stood by the Republic. Doumergue's "National Union" government managed to reestablish confidence, and under pressure from high finance initiated a deflationary program which reached a culmination the following year under Laval. The economic discontent caused by this policy helped to provoke the dynamic union of the political Left under the banner of the Popular Front. It may well be that the Popular Front victory of 1936 saved France from a revolution. There is good reason to doubt whether the aroused forces of labor and peasantry would have meekly submitted to the driving down of their economic status indefinitely. At the same time, the formation and subsequent activities of the Popular Front served dramatically to sharpen the economic and social cleavage that now divides the French nation. Despite the threatened disintegration of the Popular Front, national unity is still "on the anvil."

By an ironic paradox, the growing menace of foreign aggression now appears to provide the chief hope of a restoration of a sufficient national solidarity to enable the existing régime to deal with its domestic problems by peaceful methods. If, however, a prolonged foreign war should engulf the Republic,

the democratic process might perforce yield to some sort of fascistic authoritarianism.

### 1. *The Fermentation of Youth.*

The crucial question now facing the French people is whether the parliamentary régime can be regenerated by piece-meal reform or is doomed to overthrow by violence. Political discussion is rife with proposals for change, peaceful and otherwise. Whether of the Right or the Left, all political parties, including those proclaiming loyalty to democratic principles, have reform platforms to offer. So it is also with individual publicists of whatever orientation. So it is even more with the profusion of youth groups that have appeared during recent years.

Among the generation that has reached maturity since the War the best minds are "no longer satisfied with the traditional ideals. . . . Between the generation of those who were born about the year 1900 and their predecessors there does exist a very tangible difference of attitude."<sup>1</sup> The youth of France are now seeking "a new social synthesis in a world harassed by dictatorship and economic confusion." France, so they argue, must not become a victim of such false dilemmas as democracy *versus* fascism, capitalism *versus* communism, or nationalism *versus* internationalism. As might be expected, general "disillusionment has driven a large section of youth into the ranks of extremism right and left. But unlike their German or Italian brothers, French youth are still free to gravitate left as well as right."<sup>2</sup> The chief point of agreement among the youth leaders is that whatever be the national solution for France, it should be in keeping with the national temperament, the key to which is individualism. While most of the younger intellectuals do not hesitate to condemn the prevalent "distorted" pattern of parliamentarism, they part company when it comes to prescribing for the patient. With few exceptions they do not advocate resort to revolution, but hope for the peaceful development of a new order that can vitalize all the social forces which "express the real man." Political government would serve merely as the coördi-

<sup>1</sup> Curtius, *op. cit.*, p. 41.

<sup>2</sup> Cf. my article on "The Popular Front in France: Prelude or Interlude?" *op. cit.*

nating or "federalizing" agent for these free activities.<sup>3</sup> A marked reaction against industrialism may also be detected in this fermentation of ideas. Many writers would have France turn back, if it could, to a "pre-industrial age." This being impossible, they seek some kind of "planned economy" that can save their compatriots from enslavement to the machine. A large degree of socialized ownership is envisaged concurrently with a substantial sector for free private initiative, so that the peasant proprietor, craftsman, and small tradesman may survive. For inspiration a large part of the contemporary youth movement has turned back to Proudhon, the father of French syndicalism. Student literature reveals "a desire to keep clear of parties and to have done with old cries and jargons, even those upon which the Republic is theoretically based."<sup>4</sup> The lack of economic opportunity for educated youth during the early 1930's no doubt explains why a considerable section deserted to political communism on the one side, as well as to the authoritarian leagues on the other. In all probability, most of the youth movement will sooner or later be absorbed by the political Left. Out of the welter of ideas represented by the new generation there may conceivably emerge an alternative solution to fascism which, while anti-parliamentary as to form, will not be anti-democratic in spirit.

## 2. "Reform of the State."

In the political arena the last few years have produced the spectacle of a great people groping with the complex problems of social organization in its own peculiar way. The constitutional revolution in France was not yet finished when the disruptive forces of industrialization burst upon the country. This situation has produced a curious paradox which complicates effort for institutional reform. "Two types of reform need to be accomplished simultaneously: politico-administrative reform, which the Left does not wish; economic reform, which the Right opposes."<sup>5</sup> The Left fears strong govern-

<sup>3</sup> For an admirable interpretation of the contemporary French youth movement, cf. D. M. Pickles, "Intellectual Ferment in France," *Politica* (London), March 1936. An English translation of one of the more important youth "plans" is given in the *Source Book*, II-168 ff.

<sup>4</sup> H. G. Daniels, *The Framework of France* (New York, 1937), p. 131. By permission of Charles Scribner's Sons, publishers.

<sup>5</sup> Fr  d  ric, *op. cit.*, p. 135.



ment; the Right fights economic control. Yet economic control requires a stable, efficient administration of public affairs. "The most strongly democratic people in the world suffer the weakest parliamentary system, headed by administrations rendered irresponsible because they are always acting *ad interim*." <sup>6</sup>

So far as the reform of French parliamentarism is concerned, the key proposal advanced in conservative circles is that the Executive should be granted the power to dissolve the Chamber of Deputies without having to secure the consent of the Senate. This was a leading plank in Premier Doumergue's constitutional program of 1934. Before him it had been advocated by such political leaders as Millerand and Tardieu, and such distinguished jurists as Barthélemy, Duguit, and Capitant. "In the days of Louis-Philippe," declares Tardieu, "they used to say: 'The king reigns, but does not govern.' To-day, the Chamber both reigns and governs. This is calamitous for France, and calamitous for the Republic." <sup>7</sup> This school of reformers indicts the French parliamentary system as a distorted variant of the "authentic" British model. Only by giving the Executive the counter-weapon of dissolution can a proper equilibrium be restored between legislature and cabinet. Without this weapon the French system "condemns reforms to long suspense, even though their necessity is felt by opinion. It lacks efficacy, because it lacks an authority capable of coördinating, inspiring, directing, and concentrating parliamentary activity." <sup>8</sup> Here may be detected a nostalgia for a strong ministry backed by a solid majority, which in France happens all too rarely. The necessity of securing the Senate's consent makes dissolution impracticable for two reasons: (1) because of a natural solidarity that binds the two parliamentary houses and (2) because the deputies can exert pressure upon the senators to uphold the Chamber's position. Thus, since the famous *Seize Mai* episode of 1877, no cabinet has ever approached the Senate on the issue.

Doumergue proposed to amend the Constitution in the following sense: During the first year of the Chamber's man-

<sup>6</sup> Anne O'Hare McCormick in the *New York Times*, 18 Sept. 1937.

<sup>7</sup> *Op. cit.*, p. 112.

<sup>8</sup> R. Capitant, *op. cit.*, p. 13.

date, senatorial consent to dissolution should still be necessary; in subsequent years, however, the President of the Republic should be empowered to dissolve the Chamber without its consent. In a series of radio broadcasts, Doumergue argued that his proposal "copied the English practice." But he failed to take into account important dissimilarities in the relations of Parliament and cabinet in the two countries. In England decisions as to dissolution are taken by the cabinet as a whole. The strong position of the British cabinet, moreover, depends as much upon its homogeneous party majority in the House of Commons as upon the threat of dissolution. "In Great Britain there is usually a clear alternative choice—between dissolution and the formation of an opposition government. Across the Channel there is never such an alternative."<sup>9</sup> Unless explicit conditions as to the manner and frequency of dissolution were set up, it might be used by a strong-willed prime minister for personal aggrandizement or to give an unfair advantage to his own party. Given French political habits, there is no assurance that the threat of dissolution would have the effect of consolidating multifarious political groups into a clear-cut bi—or even tri—party system. Without this, the complexion of a Chamber elected following a dissolution might be little more likely to produce a stable governing majority than its predecessor.

Although back in 1931 Léon Blum and the Socialists had campaigned for dissolution as a means of getting the issue of disarmament before the electorate, they were quick to detect a fascistic motivation behind M. Doumergue's dissolution scheme. To the Radicals, traditionally opposed to anything smacking of "personal power," the whole idea was anathema. So, despite the fact that a Parliamentary Commission on "Reform of the State," set up in April 1934, had overwhelmingly voted in favor of the principle of dissolution without senatorial consent, Doumergue's suggestion met with indifference in the Chamber and adamant opposition from the Senate. Doumergue himself was forced from office on the issue when the Radicals withdrew from his cabinet. Parliament was in no mood to "go to Versailles" on a dissolution ticket.

<sup>9</sup> L. Rogers, *op. cit.* In ironic vein, commented the Paris *Oeuvre*, "M. Doumergue has revised the British Constitution." Quoted in Werth, *op. cit.*, p. 82.

A carefully prescribed procedure of dissolution, lodged in the cabinet as a whole and limited to major differences of policy between the Executive and the Chamber, ought to reduce cabinet instability without serving the purposes of self-seeking prime ministers. But, even if agreed upon, such a reform would have to be accompanied by a diminuation of the control prerogatives of the Senate, or, alternatively, its voluntary acquiescence in a purely advisory rôle. Otherwise, the Senate could go on throwing sand in the gears of the parliamentary machine. The second chamber, however, is not likely to "abdicate" its authority voluntarily. This being true, a formal constitutional amendment would be necessary. Even the Socialists, though theoretically still favorable to the abolition of the Senate, realize the present futility of such a proposal. In the eyes of their Radical allies, constitutional tinkering with the "guardian of republicanism" entails too many risks, while Moderate opinion is even more hostile to the Senate's emasculation. For the time being, therefore, the Senate remains an obstacle to parliamentary reorganization.

Short of formal constitutional revision, there are various ways in which the operation of the French parliamentary system can be, and is here and there, being improved. During the first year he held office, Léon Blum impressively demonstrated what can be done with the existing machinery when an intelligent and courageous leader, backed by a coherent majority with a clear-cut legislative program, is at the helm. The emergence of prime ministers *without portfolio* suggests the possibility of a more effective management of the executive authority. Similarly, recent experimentation with devices for inter-ministerial coördination may yield promising results. The administrative damage caused by ministerial instability might be further minimized if the headship of non-political ministries (e.g., the P. T. T., Public Works, Health, Labor, etc.) were entrusted to administrative experts drawn from outside the membership of Parliament. If this were done, the "dance of portfolios" could be restricted to six or eight "superministers." In this connection, there are encouraging signs that the institution of a permanent secretary-general may soon be extended to *all* the major divisions of central administration. Proposals for renovating the administrative

process through "regional" and "functional" devolution are legion.

Turning to Parliament itself, thoughtful observers of French politics rightly insist that many of its shortcomings are amenable to statutory and procedural remedies even though general agreement on specific changes is lacking. Some critics, chiefly of conservative stamp, attach major importance to electoral reform. The remedy they propose is genuine proportional representation. This, they argue, would release the deputy from local pressures and end the vice of "deputantism," while at the same time it should facilitate party consolidation. Memory of the unhappy experience with the distorted P. R. system of 1919-27, plus the fact that *per candidate* campaign costs would probably be higher, handicaps the cause of P. R. Moreover, its advocates find it difficult to answer the charge that the use of P. R. in other countries, notably Weimar Germany, appears to have aggravated the "splintering" of party groups.

Even if the existing system of choosing the Chamber were left untouched, it could, by altering its own rules, correct the abuse of "interpellation" and restrict votes of "no confidence" to questions of major importance. Nor is it unthinkable that both houses might impose upon themselves a "self-denying ordinance" which would give to the Executive the exclusive right to propose budgetary expenditure. In 1934, it will be recalled, a step in this direction was taken by the Chamber.

Another interesting suggestion was made by the rules committee of the Chamber in 1932. This would be to associate the Council of State and National Economic Council more fully with the law-making process. If the Government, as well as the committees of Parliament, were required to consult designated experts from these two bodies on *all* legislative projects, many hastily drawn and ill-considered proposals could be improved or laid over for further study. It is noteworthy that the French C. G. T. has long advocated turning the National Economic Council into a sort of "economic parliament" with powers of supervision over the "nationalized" industries of the future. Already, labor is officially represented in the re-organized management of the Bank of France and the semi-nationalized railway system.

If, from the standpoint of the Left, dissolution is the *bête*

*noire* of parliamentary reform, the Right "sees red" in the fiscal and economic changes demanded by the Left. The Left cannot govern without money and the Right still controls the productive system, the major sources of revenue, and to a large degree the instruments of credit and investment. It can use, and in recent years has used, this power to sabotage social reform legislation by speculative onslaughts against the franc in the exchange markets. The Right's demand for a "strong" government is predicated on the illogical proposition that the State should protect home industry from foreign competition and subsidize it at home, but leave it free to "exploit" French labor and consumer. This the masses will no longer accept. Thus capital takes flight and revenues fall whenever the Left attempts to enact regulatory legislation in the interest of workers and consumers. Attempts to strengthen tax administration and reduce tax evasion are acceptable neither to the Right nor to the shopkeepers and peasants who form the backbone of old-styled Radicalism.

On the other hand, the leadership of the advanced Left does not adequately appreciate the fact that there are limits beyond which the French Government, with its staggering burden of debt, cannot safely go in legislating higher standards of living for the masses. It would seem that the "New Deal" program of the Popular Front exceeded these limits, with the result that production costs were raised to a point where the French export trade could not compete for markets. Profits disappeared and with them the means of paying for social reform. Among investors there developed a psychology of fear which was reflected in declining bond prices and renewed weakness of the franc on the world's exchanges. This situation has generated a demand from the extreme Left for foreign exchange control to which Léon Blum partially yielded in his ill-fated financial proposals of April 1938, but which the Moderates still opposed because to them it seemed only a first step toward economic regimentation.

Here, then, is the impasse in which the politico-economic reform program finds itself. By creating an anti-parliamentary *mystique* in 1934, the Right provoked a democratic counter-offensive of a more advanced leftist complexion than the majority of the French people want or the economy of the country can now stand. This dilemma is not insoluble if

France can escape war and if capitalism learns how to master its instability at the international level. But these two "ifs" constitute imponderables that baffle liberal opinion everywhere.

### 3. *The Impact of Fascism at Home.*

In the meantime the age-distribution of the French population is growing older. Over one-eighth are above sixty years of age, while only one-fourth are below thirty. The post-War generation is just beginning to make its influence felt in politics. France is now suffering from a dearth of able leaders of early middle age. The War of 1914-18 killed most of them off. Except for left wing Radicals, Socialists and Communists, the political leadership of the country is still largely in the hands of men either traditionalist or authoritarian in outlook, whatever be their chronological age. Here lurks the greatest *internal* danger to democratic institutions. What is the strength of these anti-democratic tendencies?

Among admittedly anti-republican elements, the royalists are the only group pre-dating the advent of European fascism. How an organized monarchist movement emerged during the Dreyfus Affair, then suffered decline and later revived after the World War, was related in Chapter I. As the 1920's advanced, the royalist youth organization (*Les Camelots du Roi*) amused itself by carrying on a guerilla warfare against the Communists, breaking up their meetings and conducting street forays that always brought retaliation. Although these tactics, oftentimes leading to bloodshed, kept the royalist cause in the public eye, they failed to bring any appreciable increase to its popular strength. Following the condemnation of *l'Action française* by the Papacy in 1926, the monarchist camp lost something of the unity of purpose and action which it had earlier displayed. Today its official leadership still preaches the gospel that France can hope to regain national greatness only by restoring a strong monarchy. The newer fascistic leagues have, however, gained enormously at the expense of the monarchists. The *Croix de Feu* movement has eaten into the royalist following, as have also Henri Dorgeres' "Peasant Front" and Jacques Doriot's new party (to be explained later). As Pretender to the Throne, the Duc de Guise

maintains headquarters in Belgium. With the aid of his Paris supporters, a monthly bulletin (*Courrier Royal*) was inaugurated in 1935. Nevertheless, all is not harmony between the Duke and his *Action française* spokesmen. The chief reason for the tension appears to be the growing influence of Colonel de la Rocque's brother as a member of the "household" of the "royal family." In November 1937, following a royalist rally staged in Geneva, Switzerland, by the Duke's son (the Comte de Paris), the Duke issued a manifesto proclaiming his determination to "reconquer" the non-existent French throne as King Jean III. While this manifesto condemned in equal terms communism, fascism and the parliamentary system, it openly disavowed *l'Action française* tactics, suggesting that in bringing "lying accusations" against Conte Pierre de la Rocque, Maurras and Daudet were really striking at the royal house itself. Behind this denunciation probably lay the fact that the Duke and his intimate advisers looked with increasing disfavor on an insurrectionary conspiracy against the Government to which *l'Action française* had given its blessing. Nor did M. Maurras' "martyrdom" for having served an eight months' sentence for "incitement to murder," which expired in July 1937, help to revive the declining popularity of *l'Action française*. In fact, ever since a physical assault on Léon Blum by royalist hoodlums as he was leaving the Chamber of Deputies one morning in February 1936, *l'Action française* has been under a cloud. Today its followers hardly exceed 50,000 in number. As a political organization it was dissolved by decree of the Sarraut Government two years ago.

It is not surprising that the anti-democratic elements in the French body politic should have taken advantage of the spread and prestige of European fascism to further their cause. It is natural, also, that the heterogeneous cluster of political leagues openly attacking parliamentary institutions should have been journalistically dubbed "French fascism." While there is no doubt that fascism has served as inspiration and example to all of these groups, nor that they have directly borrowed from its tactics and symbolism, few of them will openly admit any connection with foreign fascist movements. With but two exceptions, the so-called "fascistic" leagues have claimed to be interested only in seeking for France an "honest

government that can really govern." Such a government, they insist, is impossible so long as free party strife is allowed to continue.

In its earlier and more idealistic stage, the French fascistic movement drew its rank and file mainly from two sources—conservative-minded romantic youth and war veterans. The oldest of the anti-parliamentary leagues, the *Jeunesses patriotes*, was founded in 1924 to combat socialism and communism and reestablish respect for the Tricolor—"the only flag that should ever wave in France." Its founder was a wealthy Paris business magnate, Pierre Taitinger, with large financial interests in chocolate and electricity. Its political program called for a strong government based on a parliament with "limited" powers and a cabinet made up of conservative business and professional leaders. Its economic program advocated a type of quasi-corporative system in which labor *syndicates* would disappear. At the peak of its strength in 1935, this organization claimed some 350,000 members, its leaders boasting that to them belonged the credit of launching the street riots of the 6 *Février* 1934. Like other political leagues of minor importance, however, its membership had been largely absorbed into the *Croix de Feu* by the eve of the elections of 1936.

Among these lesser leagues, the *Solidarité française* and *Les Francistes* were the two most important. In make-up both were more nondescript than either the Royalists or *Jeunesses patriotes*. Adopting "the blue shirt" as its distinctive grab, the *Solidarité française* first attracted notice after the 1932 elections by staging a number of spectacular raids upon communist demonstrations. Its guardian angel was M. Francois Coty, the perfumery manufacturer, whose *l'Ami du Peuple* became its newspaper mouthpiece. By *Solidarité française* was envisaged a solid front against communism and free masonry, followed by an "integral corporative" system which, if possible, was to be realized by constitutional means; if not, by "going to the street." The slogan was "France for the French"—with an anti-semitic tinge! In 1934 the *Solidarité française* claimed a membership of 180,000.

As an offshoot of this group, *Les Francistes* boldly espoused the doctrines of Italian Fascism and preached a French alliance with Mussolini in order that, "above all hate," France



might join with Nazi Germany in establishing a solid fascist bloc in Europe. Although during the years immediately preceding the 1934 riots both of these "blue-shirted" groups engaged in repeated street forays to show off their "disciplined power," they failed to win much popular following and were later completely overshadowed by the *Croix de Feu*.

The *Croix de Feu* had its beginnings in 1927 as an exclusive ex-servicemen's club. At first the membership of this club was confined to veterans cited for the *croix de guerre* and entitled to wear distinctive arm bands. A little later certain reactionary generals became interested in the possibility of using the organization as a pressure group to secure enlarged support for the army. Searching for a man who might effectively head such a movement, they hit upon a retired, but still young, colonel, François de la Rocque, who had served under Foch on the Western Front and with Marshal Lyautey in Morocco. Under de la Rocque's leadership and with substantial aid from the coffers of big business, the base of the movement was gradually extended to include not only the sons and daughters of *Croix de Feu* veterans, but their nephews, cousins, friends, and sympathizers as well. The enlarged *Croix de Feu* first attracted public attention by noisily heckling the speakers at a monster peace gathering held at the Trocadero in 1930. The *Croix de Feu's* popular strength grew slowly until after the 1934 riots, in which, incidentally, it played only a minor rôle. From then on, however, the *Croix de Feu* became the rallying-point for all the anti-parliamentary forces in the country. Although notoriously lacking in personal magnetism, de la Rocque succeeded in creating a sort of *mystique* of "the man of action." His antecedents were too aristocratic and his manner too civilized to produce the demagogic appeal of a Mussolini or Hitler, but he managed to draw into the *Croix de Feu* large numbers of idealistic youth who sought an opportunity to give France a strong and stable, though still republican, government. On account of the heterogeneous character of his following, de la Rocque advocated only the vaguest sort of program, centering about such simple ideas as "Nation, Authority, Family." There must be a moral basis for national unity, he insisted, before any detailed economic or political platform could be formulated. Even his stand on capitalism remained equivocal, though his orientation, unlike

that of the Italian fascists, was obviously hostile to State control of industry.

The high point of the *Croix de Feu* movement came between the February riots of 1934 and the Popular Front electoral victory of 1936. After 1934 the organization took on an increasingly militaristic pattern in which authority and discipline were hierarchically transmitted from the Paris "general staff" down to local sections in each *département* or municipality. Considerable quantities of firearms and ammunition were obtained and hidden at strategic points. In order to impress the country with its popular strength, the *Croix de Feu's* favorite tactic was to commandeer fleets of motor cars and mobilize swiftly and secretly (usually during the night) a mass assemblage of its rank and file in a given locality. The next day the rightist press could be counted on to report exaggerated accounts of the scale of the demonstration. *L'Echo de Paris*, which after 1933 was openly demanding a dictatorship for France, led the journalistic chorus of praise. Support also came from certain prominent "republican" politicians, notably André Tardieu, who began to flirt with fascism soon after the defeat of Right bloc in the elections of 1932 and was later to fulminate incessantly against "the democratic lie" in the pages of *Illustration* and one bad-tempered brochure after another.<sup>10</sup>

It is doubtful whether de la Rocque ever seriously entertained the idea of attempting a *coup d'état*. While publicly professing contempt for Doumergue, it appears that behind the scenes the Colonel was really working in close contact with the "Elder Statesman." When Doumergue was forced to resign in November 1934 because of loss of Radical support, de la Rocque declared that the *Croix de Feu* would continue to keep in touch with him, "for the day would come when he would save France for the second time." During the period of the Flandin Government, the *Croix de Feu* kept relatively quiet, but with the advent of the sympathetic Pierre Laval its offensive was resumed. With a membership of around 600,000 and a treasury enriched by donations large and small,

<sup>10</sup> During a libel suit brought by a lieutenant of de la Rocque against his chief in the autumn of 1937, Tardieu testified that, as premier and minister in several cabinets from 1925-1932, he had used "secret funds" to subsidize the *Croix de Feu* for helping the Government to "keep order against the communists."

the lightning mobilizations of the *Croix de Feu* "brigades" began really to frighten the Left. Rumors circulated that a "March on Paris" was contemplated. Under the impression produced by these exaggerated stories, the Radicals in Parliament accused Laval of complicity with the fascistic leagues. Laval's opposition to sanctions against Italy in the Ethiopian affair lent further credence to this charge. In November 1935, after an armed outbreak at Limoges, when a meeting of *Croix de Feu* followers clashed with a leftist counter-demonstration, de la Rocque sent the Premier a letter demanding police protection for *Croix de Feu* activities. Pressure from the Radical ministers had already forced Laval to issue three "anti-fascist" decrees of a somewhat platonic character. Following a temporary gesture of reconciliation on the floor of the Chamber between fascist spokesmen and the Socialist and Communist leaders, Parliament passed a series of the bills which gave the Government the right to dissolve any organization of a military or subversive character. Accused of treachery by the extremists in his ranks, de la Rocque lost much of his support, but gained sympathizers in moderately conservative quarters.

During the electoral campaign of 1936 the *Croix de Feu* leader essayed the rôle of "arbiter." While his organization did not itself nominate candidates, it served as the flamboyant spearhead for the loose coalition of conservative parties battling the Popular Front. "Only one thing counts for us," thundered de la Rocque as he swung around the country, "Beat communism!" The French masses, however, refused to be duped by this time-worn "anti-bolshevik" appeal. De la Rocque emerged as the chief victim of the campaign. In the new Chamber there was only a handful of deputies that he could "count as his." The Blum Government lost no time in decreeing the dissolution of the *Croix de Feu*, along with the smaller fascistic leagues; whereupon de la Rocque announced the conversion of his organization into the "French Social Party" with colors "neither white nor red," but "blue, white, and red," that is to say, the Tricolor!

In passing, brief reference must be made to a semi-fascistic movement which has recently agitated rural France. Its dynamic young leader, Henri Dorgères, is a fiery agricultural journalist who, in 1935, began to go about the countryside exhorting the tillers of the soil not to pay taxes on the ground

that French agriculture had been sacrificed on the altar of industry by the policies of recent governments. Dorgères' "green-shirted" shock troops were drawn from the ranks of the better-off peasants belonging to various farmers' unions. In many rural communities this Peasant Front became the bitterest enemy of the radical Left. Although claiming to be republican and denying any personal ambition to become a dictator, Dorgères intimated that if something was not done to ameliorate the peasant's lot, "direct action" might become necessary. His alleged association with big landowners, however, did much to undermine the influence which for a short time he exerted with the peasants. The Peasant Front still exists, but as a political force it is insignificant.

Since 1936 the axis of French fascism appears to have shifted from de la Rocque to a more demagogic leader. The latter is a renegade communist, Jacques Doriot, now chief of the *Parti Populaire français*. As parliamentary leader of the Communist party in 1934, Doriot dared to propose a coalition with the Socialists. At that time such a suggestion was equivalent to heresy in the eyes of Moscow. Expelled from the party, Doriot soon became the most vitriolic anti-communist leader in all France. From his position as mayor and deputy of St. Denis, a Paris working-class suburb, he charged his former associates with receiving funds from Moscow and hoping to involve France in a war against Germany "for the benefit of the Soviet Union, with a Bolshevik revolution in France as the ultimate objective." Following the elections of 1936, Dorio founded a party of his own, bought a Paris newspaper (*La Liberté*), and announced a domestic program which smacked strongly of Hitlerian National Socialism and included a proposal for a Franco-German alliance.

Unlike the aristocratic de la Rocque, Doriot has the strategic advantage of a working-class background. Massive, brutal, and ruthless in personal make-up, he is thought by some to possess the requisites of a potential *führer*. As the fortunes of the *Croix de Feu* declined, Doriot's star rose. Not a few of de la Rocque's right wing supporters deserted to his banner and a considerable section of the reactionary press hailed him as a possible, "man of tomorrow." It was even whispered around Paris that Herr Goebbels' propaganda bureau was subsidizing Doriot from Berlin. Whether so or not, Doriot re-

mained at the close of 1937 a leader without a large popular following, his own constituents having repudiated him in a parliamentary by-election after revelations of shady financial transactions in municipal affairs. By organized labor Doriot is castigated as a traitor. Around him has gathered an ill-assorted coterie of disreputable political "gangsters" and a few confused intellectuals seeking new guidance for an anti-bolshevik complex.

For the time being, the French fascist movement seems to be badly divided and bewildered. Sporadically the Right press breaks out with an anti-parliamentary fusillade, but on the whole its attitude is less "fascistic" than in 1934. The revival of fascism in France will probably depend upon the contingency of a "fascist encirclement" of France rather than upon political or economic developments inside the country—unless the burden of rearmament should bring complete financial collapse. In case a desperate international situation were to cause France to seek salvation in some sort of dictatorial régime, it is far more likely to be led by a Doriot than a de la Rocque.

#### *4. The Revolutionary Left.*

Despite widening rifts in Popular Front unity since the spring of 1937, the possibility of a successful revolutionary offensive from the extreme Left appears equally remote—always barring the possibility of a general European war. Although the French Communist party gave only half-hearted support to the Popular Front Governments during 1937, the imminence of the Nazi military peril was enough to keep the Communist leadership from openly breaking with their Socialist and Radical associates. With 40 per cent of the seats in the Chamber held by anti-capitalistic parties, the only alternative to a Left coalition government was a combination including most of the Right—or dissolution and new elections. So, while the Communists grew increasingly restive as the year 1938 opened, they continued to play the double game of merely annoying but voting for the Government in the Chamber, while resorting to undercover sabotage of its policies in the country—even to the point of flirting with clericalism!

The impact upon French opinion of Hitler's seizure of Austria and the British policy of "negotiating" with the dicta-

tors (under Premier Neville Chamberlain), gave rise to a growing demand for a government with a broader "national" base than the Popular Front. On two occasions after the fall of Chautemps in January, Léon Blum gallantly attempted to construct a cabinet, extending from the extreme Right to and including the Communists, but with the Socialist party as the keystone of the arch. Despite the support of a part of the Right for these efforts, the hostility to Blum as a Socialist (and perhaps also as a Jew!) was too great in conservative circles to permit the maneuver to succeed. Following Blum's second short-lived Popular Front Cabinet, Daladier formed a "national defense" Government consisting primarily of Radical Socialists, along with a few Center leaders such as Paul Reynaud. By April 1938 France thus found itself once again, in mid-parliamentary term, with a cabinet built on a minority base and existing by sufferance of the Socialist and Communist parties. The official leadership of the latter groups still proclaimed adherence to the Popular Front, but it was obvious that the political axis of France was shifting "rightward" in the face of grave foreign dangers.

While a perceptible increase of revolutionary temper in French labor circles accompanied these political developments, the working-class as a whole showed little sign of deserting democratic methods. A growing but numerically small faction of the Socialist party, headed by Marceau Pivert and militantly Trotskyite in its orientation, broke away in May and formed the Workers' and Peasants' Social Party, which now occupies the most extreme Left sector of the French political front. At the time this event was interpreted as likely to draw the Blum Socialists and orthodox Communists more closely together, especially in support of a strong military program and the maintenance of the French Mutual Assistance Pacts with the Soviet Union and Czechoslovakia. Yet it was obvious that the major parties of the Left retained only a *negative* unity—as an *anti-fascist* coalition "in reserve."

As suggested earlier, some evidence of an irresponsible extremism has appeared within the swollen ranks of the General Confederation of Labor. Now embracing well over 5,000,000 workers, this body has the largest membership of any *free* trade-union organization in the European world. The organized workers constitute 12 per cent of the whole French popu-

lation and represent with their families a still larger population. Since the return of the Communist C. G. T. U. to the older C. G. T., certain of the leaders in both groups have displayed a tendency to revert to a pre-War syndicalist philosophy; while some of their followers have broken the bonds of discipline and resorted to unauthorized strikes. In syndicalist quarters the suggestion has been made that what France needs is a "non-party" type of government representing the working masses. This proposal, however, does not seem to have taken hold. Addressing representatives of the foreign press in February 1938, Léon Jouhaux declared that French labor remained patriotically loyal to the Republic and "was willing to meet capital half way on any question, provided it is the outcome of fair discussion." To defend democratic institutions the C. G. T. stood ready even to employ the "general strike" as a weapon of last resort. It is significant, however, that the C. G. T. has thus far failed to draw many technicians or engineers into its orbit, their professional associations insisting upon independence of action. Another moderating influence on "militant" trade-unionism comes from the small farmers and lower middle classes, now being wooed by the leaders of labor.

So far as the immediate future is concerned, there are only two contingencies which might provoke a widespread revolutionary movement from the Left. One is the refusal of French industrial and financial leadership to accept the minimum of sacrifice necessary to stabilize the operating budget and monetary system without destroying the recent social reforms. Whether a workable "mixed economy" can develop under the democratic process depends in no small measure, for a country such as France, upon the course of international economic relations during the next few years. The other contingency is foreign war, which, if it should be long drawn out, might conceivably precipitate an internal revolution along Marxist or syndicalist lines. At the time these lines were written (June 1938), the French people remained substantially united in not wanting either communism or fascism.

##### *5. The Menace of Fascist Aggression from Without.*

Outside France swirls the totalitarian tide. Beginning with Italy in 1922, fifteen countries, embracing over half of the population of Europe (exclusive of the U. S. S. R.), have

succumbed to the germ of fascism in one form or another. The impact of this new breed of statecraft upon European politics has been terrific. The fate of France as the last major guardian of political liberty on the old Continent is inextricably intertwined with the progress of this awe-inspiring phenomenon. By a succession of blows delivered since the advent of Nazism in Germany, the two major totalitarian States have destroyed the Versailles system and reduced to impotence the French ideal of collective security. Not only is a frenzied rearmament race again under way, reaching small and large countries alike, but national economies under fascism are being regimented solely for purposes of military autarchy. Whether imposed or freely accepted, treaty obligations appear to mean nothing to the fascist dictators—above all to the German *Führer*. Even the rules of warfare so painfully elaborated during the nineteenth century have been flouted with impunity in China, in Spain, and in the Mediterranean, where the twin monsters of piracy on the sea and inhumanity on land have reared their ugly heads.

These epochal developments have fundamentally altered the position of France in the European international scene. Far from occupying the position of the strongest diplomatic and military power, which she held during the first post-War decade, France now finds herself exposed to powerfully armed neighbors whose rulers glorify war and inordinately crave an ever larger "place in the sun." After Hitler's re-occupation of the Rhineland in March 1936, the French military establishment was so robbed of its offensive possibilities that it became increasingly doubtful whether France would attempt to render military aid to her two allies, Czechoslovakia and the Soviet Union, in case they were attacked by Germany.

In his *Mein Kampf*, Hitler declares: "Either the world will be governed by the ideology of modern democracy, in which case every issue will be decided in favor of the numerically stronger races; or it will be ruled by the laws of force, when the peoples of brutal determination, not those that show self-restraint, will triumph." In similar vein thundered Mussolini in October 1930: "The struggle between two worlds can permit no compromise . . . either we or they! Either their ideas or ours! Either our state or theirs."<sup>11</sup> The policies

<sup>11</sup> Quoted in H. F. Armstrong's "*We or They?*" (New York, 1937), p. 35.



pursued by both of these fascist chieftains give little reason to hope that they have any intention of abandoning their defiance of the democratically organized powers, which, for propagandist purposes, have cleverly been christened as "The Haves." Despite Mussolini's pronouncement, after the conquest of Ethiopia, that Italy had now become a "satiated" State, it is clear that his meglomania for further imperial expansion has in no wise abated. In French Corsica, now marked on Italian maps and atlases as Italian, an autonomist movement is being systematically encouraged. In French Nice and Savoy, which belonged to Italy until 1860, Italian consulates act as centers of fascist espionage. The official Fascist press habitually refers to French Tunisia as having been stolen from Italy in 1881, and a propaganda campaign designed to weaken French control is assiduously waged by radio and other means. Fascist writers delight in making a dogma of "French decadence."

Across the Rhine, the Nazi "Bible" *Mein Kampf*, which brands France a "half-nigger" nation, is given to each newly married couple and compulsorily used in all German schools and universities. Notwithstanding repeated official assurances by *Der Führer* that Germany has no further territorial claims against France, German children are taught that Alsace, having once been "German," must again belong to Germany. As the year 1937 closed, former Premier Flandin, after holding private conversations with Nazi ministers in Berlin, reported that they threatened Alsace-Lorraine if France did not recognize German political predominance in Austria, abandon support of Czechoslovakia, and accept the German demands for return of the "lost colonies." Today, in the mind of every good Nazi, the myth of German war guilt has been supplanted by the counter-myth that the Fatherland had no responsibility for starting the war and was cheated of victory by a Jewish-Communist conspiracy.

As one weighs the ominous potentialities for France of fascist high pressure diplomacy and unbridled militarism, two questions naturally come to mind: (1) to what extent has the course of French foreign and colonial policy since the World War contributed to the rise of fascist nationalism? and (2) what are the prospects for defending French democracy against the peril of fascist aggression?

Throughout the post-War period French foreign policy has been dominated by two primary considerations: national security and respect for treaty obligations. France came out of the struggle of 1914-18 a fully satisfied Power. Having recovered Alsace-Lorraine and acquired as large a colonial empire as she could profitably administer, she sought no further territory. Nor were there any "unredeemed" French minorities to engage her interest. While the peace settlement imposed upon Germany justifiably merits the adjectives "harsh" and "severe," there was at least no effort "to compass the break-up of the German Reich by the instrument of a European dictatorship. It was frankly rejected by the French statesmen at Versailles. The only effect of the few irresponsible attempts subsequently made in this direction, the Separation movement in the Rhineland, the encouragement of a Danubian monarchy for the detachment of Bavaria, the designs in the Saar, all broke down in the face of combined European hostility, and France was forced back to a policy of moderation and equilibrium."<sup>12</sup>

During the first years after the War, the most serious mistake committed by the Paris government was to assume that Germany could be forced to pay reparations beyond its economic capacity. The French nationalist politicians then in power either did not or would not understand the technical difficulties of transferring German funds on a huge scale. Although perhaps justified on strict legal grounds, the attempt to apply this French view quite naturally aroused bitter resentment in Germany. The occupation of the Ruhr (1922-24) not only provoked passive resistance, but hastened, if it did not precipitate, the wild inflation which wrecked the German currency system and impoverished the German middle classes. For commercial reasons Great Britain parted company with France on the reparations question and urged a revision of the scale of payments. For a time the French government resisted this demand, claiming (1) that Germany had wilfully refused to pay up to its capacity and (2) that France had been obliged to spend huge sums for the reconstruction of the areas devastated by the German invader. With the advent of the liberal Herriot Government after the elections of 1924, a more conciliatory attitude emerged. By this time French pub-

<sup>12</sup> Daniels, *op. cit.*, p. 241.

lic opinion was beginning to free itself from the war psychosis. Premier Herriot accepted the Anglo-American proposals leading to the Dawes Plan and ordered the Ruhr evacuated. While this new plan did not provide a final settlement of reparations, it considerably scaled down the rate of payments and attempted to relate them to an index of German prosperity. During the next five years Germany was able to achieve a remarkable economic recovery and meet the Dawes payments.

Nevertheless, the new prosperity of Germany rested on artificial grounds. Only by securing large-scale loans from American and British bankers had Germany been able to restore her industrial equipment, engage in overly lavish social expenditure, establish a favorable trade balance, and pay reparations. The German people, moreover, continued to resent the restrictions on their financial "sovereignty" imposed by the Dawes agreement. By 1928 the German Government reopened the reparations question in the hope that a final settlement of her total obligation might be reached. Upon the insistence of Foreign Minister Briand, wholeheartedly committed since 1925 to a policy of Franco-German reconciliation, Paris agreed to the appointment of a committee of experts headed by Owen D. Young to prepare such a settlement. The Young Plan, which France accepted without hesitation, considerably reduced the total sum to be paid by Germany and further intimated that in the future the creditor states would demand no more from Germany than their external war debt obligations. In the case of France this meant that in proportion as Great Britain or the United States, or both, scaled down the amount of the debt owed them by France, reparation payments would be reduced. In place of the Reparations Commission set up by the peace treaties, a Bank for International Settlements was established to handle reparations payments. Finally, France agreed that upon ratification of the Young Plan by Germany she would withdraw her troops from the Rhineland. This promise was carried out in 1930—five years earlier than the time fixed by the Treaty of Versailles.

In less than two years, however, the financial debacle of Central Europe, following upon the stock market crash in New York, wrecked this "final settlement" of the reparations problem. In June 1931 President Hoover proposed a one-year

moratorium on the payment of all inter-governmental debts. Faced by the prospect of German default, France agreed to the Hoover proposal only with extreme reluctance, because in French eyes Germany "had been deliberately letting herself drift toward the present crisis" by living beyond her income.

Although there was some justification for this charge, the refusal of France to allow the proposed Austro-German customs union to take place, plus her own tight commercial and financial policy, undoubtedly contributed to the economic collapse of Germany and Austria. Foreseeing, however, that Germany would not willingly resume reparations payments after the expiration of the Hoover moratorium, the Tardieu Government insisted upon a joint agreement between Germany and the creditor Powers, providing merely for a temporary suspension of the Young Plan, on the assumption that Germany would soon recover economically. But the interests of Germany's private creditors, chiefly British and American, had to be considered. Furthermore, the Hoover Moratorium had reëmphasized the link between reparations and the inter-allied war debts. During his visit to America in 1931, Premier Laval apparently understood the American President to say that if Europe would "liquidate" reparations, the United States would be willing to reconsider the war debt question. Whatever Mr. Hoover may have actually told M. Laval, the American Congress categorically blocked debt reduction. What with the deepening of the depression and the rise of unemployment in Germany, ultra-nationalistic forces were asserting themselves across the Rhine, Adolf Hitler receiving 11,000,000 votes as presidential candidate against Hindenburg in March 1932.

Shortly thereafter occurred the French elections which returned the Herriot Left Bloc to office. Without delay the new French cabinet accepted a British proposal to hold another reparations conference at Lausanne. At this conference Herriot was induced to accept a virtual liquidation of the entire reparations obligation, with the proviso that ratification should be conditioned on a satisfactory settlement of the American war debt. Although this agreement has never been ratified, it nevertheless marked the end of reparations. Within six months National Socialism triumphantly proclaimed Germany's intention not to pay another mark. France had to

reconcile herself to meeting the gigantic costs of war and reconstruction largely by sacrificing 80 per cent of the value of the franc.

By and large, the course of French policy on reparations may be characterized as a succession of retreats from an extreme position too grudgingly and belatedly executed either to earn German gratitude or to aid European economic recovery. On the other hand, blame for the economic debacle of Germany at the end of the 1920's cannot be charged primarily to reparations. The economic catastrophe, without which the Nazi revolution could not have succeeded, resulted fully as much from the world-wide collapse of business; and for this rich America, with its contradictory high tariff and war debt policies, was no less responsible than France.

On the question of Germany's political status in Europe, a somewhat similar oscillation between strict insistence upon legal rights and guarantees of good behavior, and a willingness to revise the *status quo*, has marked the French attitude. As Professor Shotwell recently observed: "There is a widespread error in public opinion that the policy of France towards Germany throughout the entire post-War period has been consistently ungenerous and calculated from the first to last to keep Germany alienated by denying it equal status in the family of nations. This is not the case; the pendulum has swung forward at times as well as backwards, on both sides of the frontier. It remains true, however, that France, even when making advances, has seemed as grudging in meeting the German demands as Germany has in rendering thanks for any friendly action when it was at last taken."<sup>13</sup>

From its inception, France conceived of the League of Nations as a framework for organizing an international security system. To this end her delegates at the Peace Conference urged the establishment of an international police which would clothe the League with power to enforce its decisions. No such drastic proposal being acceptable to the Anglo-Saxon nations, France then sought from Britain and the United States a tri-partite guarantee of her security against unprovoked aggression. When America rejected the League, this treaty also came to naught. Subsequent efforts made in 1920-22 to secure a British guarantee likewise ended in fail-

<sup>13</sup> *Op. cit.*, p. 281, note 1.

ure. Obsessed by fear of quick German recuperation from the effects of the War and a return to militarism, France refused to take the risks of reducing her defense establishment until mutual assistance could be made the basis for security in Europe. Consequently, she gave her support at Geneva to the proposed Draft Treaty of Mutual Assistance of 1923 and in the following year Premier Herriot sponsored the Geneva Protocol for "Arbitration, Security, and Disarmament." Representing the most comprehensive program for outlawing aggressive war so far devised by man, this document proposed as an automatic test of aggression the refusal to accept pacific procedures for the settlement of international disputes or to refrain from using force pending settlement. Against a declared aggressor all members of the League were to obligate themselves to impose the sanctions envisaged by Article 16 of the Covenant, account being taken of the special geographic situation of each State. Once again disappointment greeted French efforts to "organize peace" on a collective basis. Great Britain rejected the protocol partly because of objections from the Dominions, partly because it feared that, with America "isolated," the British navy might be left "holding the bag."

Although again balked, France did not abandon her pursuit of collective security. In 1925 Foreign Minister Briand inaugurated a regional approach to the problem. At Locarno Great Britain and Italy agreed mutually to guarantee the Franco-German frontier by coming to the aid of whichever State might be the victim of unprovoked aggression across this frontier, in accordance with the League Council's decision on the facts. The aim of M. Briand's policy was "to placate Germany and win her coöperation." Consequently, upon French initiative, she was welcomed into the League fold in 1926 and given a permanent seat on the Council. For four years the "Spirit of Locarno" had a most salutary effect upon European affairs. In collaboration with Gustav Stresemann, Germany's liberal-minded Foreign Minister, Briand projected plans for a gradual transition from the Versailles system to a general European organization for political security and economic solidarity. As evidences of the new spirit, France ended the second zone of the Rhineland occupation in 1926, four years earlier than was stipulated by the Peace Treaty. During the famous conversations with Stresemann at Thoiry that same

year, Briand indicated his readiness to withdraw entirely from Rhineland, and even the Saar, in return for concessions in the form of reparation payments. In December 1926 Inter-Allied military control in Germany was brought to an end. Growing out of a suggestion made by the French Foreign Minister on the occasion of the tenth anniversary of America's entry into the War, the Pact of Paris for the renunciation of war as an instrument of national policy was concluded in August 1928 and subsequently ratified by over sixty States.

Unfortunately for the success of Briand's peace policy it did not move fast enough to satisfy Germany. Nor was he able to dissipate the suspicion, particularly in Germany and Italy, that his real purpose was to consolidate French hegemony in Europe. This suspicion deepened when in 1930 he launched an abortive plan for a European federation within the larger framework of the League. Nevertheless, after Locarno, France reduced her conscript effectives by 50 per cent as compared to 1914 and the term of compulsory service from three years to one. But retention of the Versailles limitations on German national armaments, added to the stigma of "war guilt," increasingly rankled German national opinion. The long delays at Geneva in preparing for the World Disarmament Conference convinced the German nationalists that France had no real intention of carrying out the provisions of Article 8 of the Covenant. In support of this view the Germans could point to the diplomatic and quasi-military alliances which France had maintained with Poland and the Little Entente countries ever since the early 1920's.

The Geneva Disarmament Conference, which finally opened in February 1932, brought Franco-German relations to an impasse. Briand's conciliatory influence on French policy steadily declined as extremist nationalism rose in Germany. In the autumn of 1931 the great "European pacificator" left the Quai d'Orsay a sick old man and by the following March he was dead. Until June French diplomacy, in the hands of Tardieu, offered stiff resistance to the German demands. At the opening of the arms conference the French advanced a far-reaching plan designed to internationalize all aviation (civil as well as military), to place at the League's disposal all offensive weapons (bombing planes, heavy artillery, large submarines, and capital ships), and to implement Article 16 with a positive obligation by League members to aid victims

of aggression. This proposal for what amounted to an international police force was conditioned upon the acceptance of compulsory arbitration, automatic determination of the aggressor, and international control and inspection of national armaments. Once more the French thesis that "peace is indivisible" failed to win support. A series of unilateral declarations from the United States, Britain, and other States delayed consideration of the draft disarmament convention which the Preparatory Committee had so painfully elaborated after seven years of involved technical discussion.

Harassed by nationalist pressure at home, the Berlin Government temporarily withdrew from the conference because its demand for "arms equality" had not been granted. With Herriot again Premier, however, France agreed in December 1932 to a joint declaration that the disarmament conference would undertake to grant Germany, and to the other Powers disarmed by treaty, "equality of status in a system providing security for all nations alike." While this represented only an agreement in principle, for equality and security still had to be defined, France had at last officially recognized the German claim to arms equality. The tragedy was that this recognition came too late. Inexorably the drama moved on to the denouement. Faith in the League system and Kellogg pact had already been markedly weakened by the failure of Britain and the United States to support, either with economic or military pressure, their moral condemnation of Japanese aggression in Manchuria. Upon the initiative of Mussolini, now a member of the "revisionist" camp, an attempt was made in June 1933 to effect a Four-Power Pact (among Italy, Britain, France, and Germany) so that disarmament and treaty revision "might be pursued in a spirit of coöperation." Although the Pact never became operative, it tended to weaken the bonds between France and her Allies, Poland in particular resenting her exclusion from the proposed Great Power control scheme. Embarking on its own rearmament program, the German Nazi régime categorically refused to accept a four-year standstill arrangement proposed by France and the other European Powers in order to test German good faith. Instead, Hitler demanded that Germany be granted "samples" of all weapons allowed to other powers but forbidden to Germany by the Treaty of Versailles. Thoroughly alarmed by military activity in Germany, France, backed by Britain and Italy, insisted that



equality of arms status should be approached by progressive stages. Hitler then spectacularly withdrew not only from the disarmament conference, but from the League of Nations altogether, and secured an overwhelming popular endorsement of his action by a Nazi plebiscite held in November 1933.

The present phase of European international politics may be said to date from Hitler's break with Geneva. In return for recognition of the right to fortify the Rhine, increase the Reichswehr to 300,000 men, and equip it with all categories of "defensive" weapons, Hitler offered France and Poland a ten-year non-aggression pact. When France rejected this proposal because it contained no enforcement guarantee, Germany persuaded Poland to enter into a non-aggression pact with her alone. Soviet Russia, frightened by the Nazi menace to its own security, then joined the League it had formerly despised and became a *status quo* power.

Meanwhile, during 1934, the French Foreign Minister (Louis Barthou) endeavored in vain to secure German adherence to an "Eastern Locarno" scheme for the stabilization of the frontiers of Central Europe. Obsessed by Hitler's dream of annexing the Ukraine and an aggressive pan-racialism, the Nazi Government refused to give any such pledge. In March 1935 Hitler boldly repudiated the armament restrictions imposed upon Germany by the Treaty of Versailles. Unable to count on British coöperation in any forcible action against the "treaty-breaker," France was forced to be content with a verbal protest by the League Council. *Der Führer* proceeded to re-arm with impunity.

As a counter-balance to rising Nazi power, France proceeded to negotiate a mutual assistance pact with the Soviet Union and reiterate its obligation to protect Czechoslovakia. While under the circumstances it may have been a diplomatic necessity, the Franco-Soviet Pact tended to accentuate the ideological conflict in Europe—fascism *versus* communism—as well as to spur Nazi Germany on to a more frenzied militarism than ever.

In January 1935 Premier Laval had essayed another maneuver to counteract Nazi influence in Europe. This was an attempt to restore friendly relations with Italy by ending the long-standing Franco-Italian colonial feud. Laval went to Rome and agreed to cede to Italy a strip of French Equatorial

Africa bordering upon Italian Libya and a small triangle of French Somaliland adjacent to Eritrea. During the Rome conversations, Il Duce was apparently given to understand that France would not interfere with his future plans concerning Ethiopia, although Laval subsequently claimed that he had referred only to economic concessions. At any rate, after Italy invaded Ethiopia in October, the French Government evinced some reluctance in supporting the relatively mild League program of sanctions against Italian aggression and became one of the stumbling blocks to the imposition of an embargo on oil—the other two obstacles being British fear of Italian reprisals and general uncertainty as to whether the United States would join in such an embargo, by which alone Mussolini might have been balked.

With the Italian military campaign advancing toward victory in spite of League sanctions, Hitler adroitly seized the opportunity in March 1936 to renounce the Locarno agreements and march his troops into the "demilitarized" Rhineland zone. Once again France solemnly protested through the League, but in the end capitulated to Hitler. If at this juncture Paris had taken the courageous step of mobilizing French troops on the German frontier, Hitler might have backed down. But without assurance of British support the Sarraut Government was afraid that such action might precipitate war, and this the French people wanted to avoid at all costs. The Rhineland coup ruined any chance League action against Italy still had of being effective, and in July 1936 sanctions were formally abandoned. Each of the fascist dictators could claim another victory over a divided and hesitant democratic diplomacy.

It is a significant coincidence that the formal ending of sanctions against Italy should have marked the beginning of General Franco's revolt in Spain. There is little doubt that without direct Italian (and German) aid Franco would not have raised the standard of rebellion nor have been able to carry on civil war for years thereafter. Emboldened by the Abyssinian triumph, Italy "welcomed an opportunity to strengthen her position in western Mediterranean waters."<sup>14</sup> The fact that the Loyalist Government of Spain had an ad-

<sup>14</sup> E. H. Carr, *International Relations since the Peace Treaties* (London, 1937), p. 256.

vanced leftist complexion, even though it was by no means communist, made it plausible for Mussolini and Hitler to contend that their purpose was "to save Spain from Bolshevism." In France, where the Popular Front had just come into power, the Socialists and Communists were naturally sympathetic to the cause of the Spanish Loyalists and urged Premier Blum to supply them with war materials. Under pressure from London and the French Right, however, the Quai d'Orsay acquiesced in a policy of "non-interventionism." Behind this "hands-off" policy, to which the two fascist dictators never gave more than lip-service, lay the fear that the Spanish conflict might set off the spark for a general European conflagration, and Britain, with its rearmament program barely under way, felt it necessary to play for time—not to mention the ill-concealed preference of a large section of the Tory party for a "fascist" victory in Spain.

After 1936, the foreign policy of the French Government was postulated on three opportunistic considerations: (1) to do nothing to weaken Franco-British relations; (2) to keep the door open for an understanding with Germany and Italy, if that still was possible; and (3) to salvage what was left of the League and regional mutual assistance system. In practice, the first of these aims resulted in a diplomacy marked by extreme caution, if not weakness, tied as it was to the vacillations of the British Foreign Office. If the worst comes to the worst, France knows that her former World War Ally would again help to protect the "common frontier" of the two countries—the Rhine. Defensively, the two democracies are partners in a more iron-clad alliance than in 1914, detailed plans for coördinating their war machines having been agreed upon in April 1938. In the meantime, however, the British notion that, by allowing Hitler a relatively free hand in Central Europe, it would be possible to divert his attention from the colonial field, was not shared by many Frenchmen. They were under no illusions as to the ultimate objective of Hitler's game of blackmail diplomacy and inflammatory propaganda in Czechoslovakia, in Danzig, and throughout Balkan Europe. But without full assurance of British backing, France, now exposed to a powerful and completely modernized Nazi army and air fleet, was forced to pursue a hesitant course.

Despite the menacing implications of the Rome-Berlin axis, France has shown a constant willingness to negotiate with

Nazi Germany on armaments and economic issues. It was a strange irony of events that made Léon Blum, the cultivated Jewish Socialist who had preached treaty revisionism for a decade, the responsible head of the French Government at the very time that the violently anti-semitic, anti-communist, and anti-intellectual Adolf Hitler held unchallenged control of the German nation. Yet Premier Blum did not allow this fact to swerve him from seeking an understanding with the German *Führer*. One of the first acts of the French statesman was an offer to re-open disarmament negotiations on a basis of complete equality. When Hitler turned a deaf ear to this suggestion, M. Blum, in January 1937, invited Germany to a discussion on how to improve economic and financial relations between the two countries. Again he was spurned by Berlin. Later in the year, after Blum had given way to Chautemps, France agreed to extend the clearing arrangements already existing between Germany and the French colonies so as to facilitate the sale of German industrial exports in exchange for native products. But Germany showed little disposition to enter into reciprocal economic arrangements of any kind. The Quai d'Orsay has also indicated its desire to participate in a general European conference on the whole colonial question. For this idea, however, neither Britain nor Germany has thus far displayed any particular sympathy, though for entirely different reasons.

Herself seriously deficient in all important minerals but iron and nickel and possessing no rubber, France refuses to admit the validity of the "Have *versus* Have-not" thesis which the Fascist Powers have tried to impress upon the world in recent years. The French colonies, while constituting an area of nearly 4,000,000 square miles and containing a population of 60,000,000, are not major sources of raw materials.<sup>15</sup>

<sup>15</sup> The French Colonial Empire is geographically distributed as follows:

<i>Africa</i>	<i>Area in Square Miles</i>
(Algeria, Tunisia, Morocco, West Africa, Equatorial Africa, Madagascar, Somaliland)	3,609,000
<i>Asia</i>	
(Indo-China, French India) . . . . .	271,000
<i>America</i>	
(St. Pierre, Miquelon, Guadeloupe, Marti- nique, Guiana) . . . . .	35,000
<i>Oceania</i>	
(New Caledonia) . . . . .	9,000

Their value lies rather in providing (1) an expanding market for French exports and (2) a reservoir of manpower for military defense. Since the World War the French "closed door" policy, which used to apply only to a part of the French overseas possessions, has been extended. Tunis, New Caledonia, and French India have recently been brought within a preferential tariff system, while Indo-China, Madagascar, French Guiana, and Algeria are now completely assimilated into the French customs area. As a result, the ratio of colonial trade to total French foreign trade increased from 9.8 per cent in 1920 to 15.2 per cent in 1929. Since the world economic depression the relative importance of French colonial trade has doubled. In 1936 nearly a third of the external commerce of France was with her colonies. The prosperity of such French ports as Marseilles and Bordeaux largely depends upon colonial trade and shipping.

While German colonial trade was not large even before the War, there is truth in the claim that the "closed door" policy practiced by France (and, be it noted, only to a slightly less degree by the British Empire) does handicap Germany in securing foreign exchange for the purchase of raw materials abroad. Acting in concert with Britain and other colonial powers, France would doubtless be willing to liberalize her economic colonial policy, but she is not likely to "open the door" alone.

In French eyes the German demand for colonies rests far more upon considerations of national prestige than upon economic grounds. To turn back the mandated territories to Germany, the French argue, would be merely to whet her appetite for additional colonial territory, or, at the very least, to afford a plausible pretext for further naval expansion. French liberal opinion is much more sympathetic to the idea of internationalizing *all* non-self-governing colonies under a strengthened mandate system with German participation. Indeed, the parties of the Left have gone on record to this effect. But a Germany dedicated to the perpetuation of international anarchy cannot be expected to do other than ridicule any such coöperative approach to the colonial problem.

There is still another reason why the French people look coldly upon the Nazi campaign for colonies. This is the interest of the native populations. While the French record in

dealing with backward peoples in the past has not been spotless, there is no doubt that present-day French colonial policy rests upon the humanitarian ideal of native co-partnership. Native customs are interfered with as little as possible. The African is allowed to participate in the development of natural resources. Colonial education is designed to make the native more productive economically. In addition to the teaching of spoken French, it includes agriculture, arboriculture, various handicrafts, and social hygiene. It aims to prepare the natives eventually for the benefits of French civilization and French citizenship. The success of this policy, of course, has varied depending upon the degree of advancement of different colonies. Probably the best results have been obtained in North Africa and Indo-China.

As a formal gesture looking toward the goal of colonial assimilation, the Colonial Ministry was rechristened the Ministry of Overseas France in 1934. For a long time, the territory of Algeria has enjoyed the status of three local *départements*, with direct representation in the French Parliament and considerable fiscal and administrative autonomy. While the need of manpower and a natural pride in the impressive colonial achievements of the Third Republic are undeniably important factors in the French desire to keep their overseas empire intact, the moral instincts of the nation also rebel at the thought of exposing the African native to the "tender mercies" of Nazi racial domination.

Since the advent of the Popular Front, the "French Government has sought to strengthen its position in the Near East by making its peace with the Arab nationalist movement, through the elevation of the French mandates in the Levant to the status of allied, nominally independent states."<sup>16</sup> Late in 1936 twenty-five year alliance treaties were concluded with Syria and Lebanon whereby they are shortly to be granted membership in the League of Nations, in return for the right of France (during a limited period) to advise their governments, aid in the protection of native minorities, and maintain military bases on their territories. In January 1937 the Blum Government set up a committee to inquire into the needs and aspirations of colonial populations and propose needed re-

<sup>16</sup> D. H. Popper, "Strategy and Diplomacy in the Mediterranean," *Foreign Policy Report* (New York), 1 June 1937.

forms. As the year closed, Minister Albert Sarraut was sent to North Africa at the head of a commission to investigate the effects of seditious Italo-German propaganda among the Moslems. Recent disorders in Morocco and Tunis are laid to fascist agitation. To combat unrest, the French Government is now strengthening its defenses in North Africa and inaugurating a "radio counter-offensive." It was concern lest the lines of communication with her North African possessions might be broken that led France to join wholeheartedly in the Nyon anti-piracy agreement of August 1937. This action, incidentally, gave proof that by presenting a united front France and Britain could enforce an effective sanction against fascist lawlessness.

In the face of the Chamberlain policy of trying to "appease" the dictators, France is forced at present to sit tight and hope for the best. Lacking confidence in the value of French military support, Rumania and Yugoslavia repeatedly give evidence of succumbing to the wooing of Fascist and Nazi envoys. In October 1936, Belgium, frightened by the growth of German military power, announced her return to a policy of complete neutrality. Moreover, after the Ethiopian fiasco, the smaller democratic States of Europe—Switzerland, the Netherlands, and the Scandinavian nations—lost much of their former faith in the capacity of the League security system to give them protection, and fell back on the dubious expedient of unilateral defense measures. All these developments afforded diabolical satisfaction to Berlin, for its principal aim was to detach as many States as possible from the collective security "myth" so as to deal with them one by one.

The hope that Germany might be lured back into a "reformed" league was apparently dashed to the ground by Hitler's declaration of November 1937 that he would never return to Geneva "under any conditions." This was how *Der Führer* greeted the announcement of Italian withdrawal from the League. In March 1938 the complete "nazification" of Austria was achieved by direct military intimidation. Hitler's Germany had at last crossed its legal frontiers and made *Anschluss* a fact; and the rest of Europe and the League did nothing about it but gasp!

Shortly thereafter, in May, the German *Führer* menaced anew Czechoslovakia, intimating that the establishment of a

German protectorate over the Sudeten minority might be his next move in Central Europe, and threatened France if it sought to aid its Central European allies. Courageous action by the Czechs in mobilizing their reserves caused Hitler to defer his plans for the time being. But by September the Nazi propaganda machine had provoked virtual civil war in Sudetenland. Immediately there came an arrogant demand from Hitler for its outright cession to the Reich. Despite French mobilization and frantic efforts by Anglo-French diplomacy to secure a settlement acceptable both to the Nazi *Führer* and the Czechs, even to the point of surrendering the German districts in Sudetenland in return for a general international guarantee of the revised frontiers of Czechoslovakia, European tension was rising daily when this paragraph went to press. To informed observers there seemed to be no alternative but the ultimate sacrifice of Czechoslovakia as an independent State, *or* an armed conflict between Germany (and possibly Italy) and a coalition of States, headed by France and Britain, desirous of checking the blatant aggression of a Power intoxicated with its racio-imperialistic mission. Either way the prospect for France, if not for all Europe, was appalling to contemplate.

In order to strengthen its *defensive* position, France was extending the "Matignon" fortifications northward along the Belgian frontier and southward along the Swiss border. The army, navy, and air forces had been placed under the unified direction of a single minister and a special national defense investment fund had been set up. Additional naval construction was under way and the air force was being doubled in an effort to match the technological standard of Nazi aviation—all at terrific cost to a national debt structure that threatened the recently thrice-devalued franc with disaster.

So long as Germany and Italy refuse to return to the procedures of orderly international coöperation, no lasting settlement of European international relations will be possible. The "gangster" dictators not only scorn such procedures, but lose no chance publicly to castigate the democracies as weak and decadent. The only language the dictators seem to understand is force. Pledges given are observed only so long as it suits their interest. Meanwhile, their foreign propagandist machinery operates on high gear by means of inflammatory radio broadcasts, espionage in neighboring countries and



among colonial populations, and the fomentation of trouble for democratic governments at home.

#### 6. *The Fate of France.*

In the last analysis, the chief threat to democratic liberty in France is the menace of fascist aggression from without her borders. Said M. Briand on the occasion of the signing of the Peace Pact of Paris a decade ago: "Peace has been proclaimed and that is well. That is much. But peace has yet to be organized." Today not only is peace less organized than when M. Briand spoke these prophetic words, but the ideal of peace is brazenly repudiated by the rulers of 110,000,000 Europeans and 70,000,000 Asiatics. In the past France has had her full share of "glamorous" victories in war and diplomacy, but today the nation is wholeheartedly dedicated to the cause of peaceful international coöperation. Old dreams of hegemony have faded—probably forever. Voices may now be heard which suggest that France should resign herself to the rôle of a *secondary* power in world affairs. Yet her size and resources will probably prevent her from abdicating the responsibilities of European leadership in the struggle to save democracy from destruction.

For France the crucial question is whether this struggle will bring with it the destruction of that spiritual and civic freedom for which both Americans and French fought a century and a half ago. The nature of the fascist creed is such that it is not likely to be satisfied with half-way conquests. If the Rome-Berlin axis holds, Britain continues her vacillating policy, and America clings to "isolationism," all Central and Southern Europe may fall under the yoke of the dictatorial Powers—followed, perhaps, by the rest of the Continent, including France—a France which in the meantime might have in desperation succumbed to a nationalistic dictatorship of her own. If this were to happen, could the American Continent remain untouched by the scourge? Fascism is a disease that thrives on expansion; and hegemony in Europe would give it tremendous prestige elsewhere. The death knell of democracy might be sounded. This is why the champions of democracy in America cannot intelligently dissociate themselves from its fate France.

In the long run the chances are that this dark picture will not be painted on the face of the world. At best, dictatorship is a precarious form of social organization. In the aggregate the democratic States of the world possess a commanding superiority in morale, natural resources, and economic technology. Before it is irrevocably too late, they are likely to come to their senses and unite against their common enemy. Or the enemy may be rent by dissensions within its own camp. It is no natural bond of unity that has brought Berlin, Rome, and Tokyo together—witness Il Duce's coolness toward Hitler after the Austrian tragedy! Moreover, long before any concerted military aggression by the fascist bloc could attain its ultimate objectives, internal revolutions might wreck fascism at home.

Even if war is averted, however, France and her sister democracies will still face the baffling problem of economic stabilization. The solution of this problem will undoubtedly entail far-reaching readjustments in political and economic institutions which are now only dimly perceived. For this task the French people, while somewhat lacking in aptitude for efficient technical organization, possess certain positive virtues—a sense of humor, a poise, and a realism that bely their surface effervescences. Since the birth of the Third Republic the political pendulum has always oscillated around an axis. French voting behavior does not produce “landslides.” Schooled by a century of experience with constitutional processes and frugal living, the French masses are instinctively skeptical of specious political nostrums and demagogic appeals. During the winter of 1935, the Paris *Petit Journal* held a prize contest for the purpose of increasing its circulation. Underneath the caption, “If France were to have a dictator, whom would you choose?” was a coupon containing some forty possible candidates, ranged alphabetically from a Catholic abbé to a popular general, including Colonel de la Rocque. Here, perhaps, was a “neat Gallic way of killing the dictator idea by ridicule. Even a Paris editor knows that dictators do not come from sending in newspaper coupons.”<sup>17</sup>

<sup>17</sup> P. Hutchinson, “French Democracy in Decay,” *Current History*, May, 1935. For a singularly eloquent defense of the democratic system, cf. Premier Blum's radio broadcast of 17 Sept. 1936, an English translation of which is given in the *Source Book*, II-163 ff.

Despite the turmoil of recent years, the civic soundness of the French body politic remains unshaken. Except for a few disgruntled and reactionary officers, the French army, recruited as it is from the masses of the people, is as loyal as the industrial worker, shopkeeper, or peasant to the democratic ideal. "There are no real technical possibilities for a civil war in France—for, as distinct from Spain, the French army is essentially non-political. And even if there were such technical possibilities, as well as a suitable psychological atmosphere . . . both the Left and Right would still be restrained by the thought that civil war in France would put her at the mercy of Germany."<sup>18</sup>

Since 1934 the representatives of 4,000,000 French war veterans, in congress assembled, have repeatedly affirmed their faith in democratic reform—not revolution! The doctrine of revolution may quicken the heartbeat of a small minority of Frenchmen, but it does not typify the nation. Instead of France going Communist in 1936, the Communists went French. By adapting the deeply rooted myth of 1789—"Liberty, Equality, Fraternity"—to existing circumstances, the Popular Front was able to scatter the forces of incipient fascism.

If a new French "revolution" is in the offing, its texture will not be foreign, but homespun. If France has her way, it will also be peaceful and democratic. In a world full of dynamite France is forced to live dangerously, but she hopes to work out her national salvation by free "trial and error" rather than by totalitarian regimentation. According to the French scale of values, the social disorders that come from talking too much are as nothing compared with the moral chaos produced by resort to organized violence. "Political science," sagely observes M. Barthélemy, "would be too simple if it merely offered an option between good and evil. Politics is the art of choosing between a great evil and a lesser evil. Liberty and parliamentarism are the lesser evils."<sup>19</sup> Still "the most democratic of all the democratic great powers, and the least industrial of the industrial great powers," France struggles to preserve her heritage of political liberty and cultural individualism in a seething world.

<sup>18</sup> A. Werth, *Which Way France?*, p. 406.

<sup>19</sup> *Le Travail parlementaire*, p. 371.

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